

10:16:08

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA
RASEAN JOHNSON, AN INDIVIDUAL .
PLAINTIFF, . NO.17-CV-0410
V. . MAY 22, 2019
CITY OF SAN DIEGO, . SAN DIEGO, CALIFORNIA
DEFENDANTS. . JURY TRIAL - DAY 2
.

10:16:08

TRANSCRIPT OF PROCEEDINGS
(TESTIMONY OF RASEAN JOHNSON AND SHEILA BEALE ONLY)
BEFORE THE HONORABLE MICHAEL M. ANELLO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF: SMITH, STEINER, VANDERPOOL, APC
BY: JOHN Y. VANDERPOOL AND JON CADIEUX
401 WEST A STREET, SUITE 340
SAN DIEGO, CALIFORNIA 92101
FOR THE DEFENDANTS: OFFICE OF THE CITY ATTORNEY
BY: ALISON P. ADEMA
AND GEORGE F. SCHAEFER
1200 THIRD AVENUE, SUITE 1100
SAN DIEGO, CALIFORNIA 92101
COURT REPORTER: JULIET Y. EICHENLAUB, RPR, CSR
USDC CLERK'S OFFICE
333 WEST BROADWAY, ROOM 420
SAN DIEGO, CALIFORNIA 92101
JULIET_EICHENLAUB@CASD.USCOURTS.GOV

REPORTED BY STENOTYPE, TRANSCRIBED BY COMPUTER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

EXAMINATION

WITNESS NAME	DIRECT	CROSS	REDIRECT	RECROSS
RASEAN JOHNSON	4	64	105	109
SHEILA BEALE	110	139	151	

EXHIBITS

EXHIBIT	DESCRIPTION	EVIDENCE
25	15
13	19
5	25
19	28
7	37
52	47
8	48
26	51
27	59
108	70
123	71
132	71
134	72
33	94
36	96
45	97
46	99
47	99

10:16:08

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SAN DIEGO, CALIFORNIA; MAY 22, 2019; 10:16 A.M.

-000-

THE COURT: OKAY. ARE WE READY TO CALL OUR FIRST WITNESS?

MR. VANDERPOOL: WE ARE, YOUR HONOR.

THE COURT: OKAY.

MR. VANDERPOOL: THE PLAINTIFF CALLS RASEAN JOHNSON.
(OATH ADMINISTERED.)

THE CLERK: THANK YOU. PLEASE BE SEATED. STATE YOUR FIRST AND LAST NAME AND SPELL IT FOR THE RECORD.

THE WITNESS: MY NAME IS RASEAN JOHNSON, R-A-S-E-A-N,
J-O-H-N-S-O-N.

DIRECT EXAMINATION

BY MR. VANDERPOOL:

10:17:01

Q. GOOD MORNING, SIR.

A. GOOD MORNING.

Q. WHERE ARE YOU FROM?

A. SAN DIEGO, CALIFORNIA.

Q. DID YOU ATTEND HIGH SCHOOL IN SAN DIEGO?

A. YES, SIR.

Q. WHICH ONE?

A. MADISON HIGH SCHOOL.

Q. GRADUATE FROM THERE?

A. YES, SIR.

Q. ANY COLLEGE DEGREES OR CREDITS?

10:17:14 1 A. I ATTENDED COLLEGE. I HAVE CREDITS.
2 Q. WHAT COLLEGE?
3 A. SAN DIEGO CITY COLLEGE.
4 Q. ABOUT HOW MANY CREDITS?
5 A. I'M NOT SURE.
6 Q. OKAY. A LITTLE BIT ABOUT YOUR PERSONAL LIFE, SIR; ARE YOU
7 MARRIED?
8 A. YES, SIR.
9 Q. IS YOUR WIFE HERE?
10 A. YES, SIR.
11 Q. CANDACE?
12 A. YES, SIR.
13 Q. HOW LONG HAVE YOU BEEN MARRIED?
14 A. WE'RE NEWLYWEDS.
10:17:40 15 Q. CONGRATULATIONS. HOW LONG WAS THAT ENGAGEMENT?
16 A. I'VE KNOWN CANDACE SINCE I WAS 13 YEARS OLD.
17 Q. THAT'S A LONG ENGAGEMENT, SIR.
18 A. YES, SIR.
19 Q. YOU HAVE CHILDREN?
20 A. YES, SIR.
21 Q. YOUR OWN, AND CANDACE HAVE CHILDREN?
22 A. YES.
23 Q. HOW MANY TOTAL?
24 A. THREE.
25 Q. WHAT ARE THEIR AGES?

10:18:01 1 A. 17, 16, AND 10.

2 Q. YOUR WIFE IS GLAD YOU GOT THAT RIGHT. SIR, YOU PRESENTLY
3 WORK FOR THE CITY -- I THINK THAT'S BEEN ESTABLISHED -- SINCE
4 2004?

5 A. YES, SIR.

6 Q. A LITTLE BIT BEFORE YOU CAME TO THE CITY. WHAT FULL-TIME
7 EMPLOYMENT DID YOU HAVE PRIOR TO WORKING FOR THE CITY?

8 A. I WORKED AT THE COUNTY MENTAL HEALTH AS A MENTAL HEALTH
9 COUNSELOR. BEFORE THAT, I WAS A SUPERVISOR, GRAVEYARD SHIFT,
10 DEL TACO, DOWNTOWN.

11 Q. HOW LONG DID YOU WORK AS A SHIFT SUPERVISOR FOR DEL TACO
12 GRAVEYARD SHIFT?

13 A. APPROXIMATELY TWO YEARS, WHILE I WAS IN COLLEGE.

14 Q. DID YOU START AS A SHIFT SUPERVISOR AT DEL TACO?

10:18:44 15 A. NO, SIR.

16 Q. WHAT POSITIONS DID YOU HOLD WHILE THE TIME YOU WERE
17 THERE?

18 A. REGULAR CASHIER, SIR, MEMORIZED EVERYONE'S POSITION,
19 OVERTIME, THEY TRUSTED ME WITH THE MORNING DROP. SO I GET IN
20 ABOUT 11:00 AT NIGHT. I CLOCK OUT ABOUT 7:00 IN THE MORNING,
21 DROP OFF THE DROP AT THE --

22 Q. HOW MANY -- FORGIVE ME, SIR. HOW MANY EMPLOYEES,
23 APPROXIMATELY, WOULD YOU SUPERVISE ON A GRAVEYARD SHIFT?

24 A. TYPICALLY, THERE'S THREE OF US. SO THERE WOULD BE TWO.

25 Q. ALL RIGHT. SIR, BEFORE I GET INTO YOUR CITY EMPLOYMENT,

10:19:18 1 SOME HISTORY OF THAT, WERE YOU DEPOSED UNDER OATH BY THE CITY
2 IN THIS CASE?
3 A. YES, SIR.
4 Q. DO YOU REMEMBER THE TIMEFRAME, THE MONTH, THE YEAR?
5 A. A COUPLE YEARS AGO.
6 Q. JANUARY 2018 RING A BELL?
7 A. YES, SIR.
8 Q. WAS THAT AN ALL-DAY AFFAIR?
9 A. ALL DAY.
10 Q. EIGHT HOURS?
11 A. YES, SIR.
12 Q. DID THEY VIDEOTAPE YOU?
13 A. YES, SIR.
14 Q. DID YOU ANSWER ALL THE CITY ATTORNEY'S QUESTIONS?
10:19:38 15 A. BEST OF MY ABILITY.
16 Q. DID YOU DO SO HONESTLY, SIR?
17 A. YES, SIR.
18 Q. DID YOU REVIEW THAT TRANSCRIPT AFTER IT WAS PROVIDED TO
19 YOU?
20 A. YES, SIR.
21 Q. DID YOU MAKE ANY CHANGES TO YOUR TESTIMONY?
22 A. NO, SIR.
23 Q. HAVE YOU REVIEWED THAT TESTIMONY AGAIN RECENTLY, SIR?
24 A. YES, SIR.
25 Q. AND PREPARED TO TESTIFY TODAY?

10:19:53

1 A. YES, SIR.

2 Q. THANK YOU. YOUR CITY EMPLOYMENT, WHAT DREW YOU TO THE CITY
3 AS AN EMPLOYER, SIR?

4 A. WELL, I HAVE FAMILY HISTORY WITH THE CITY. MY GRANDFATHER
5 RETIRED, AFTER MY GREAT-GRANDFATHER RETIRED. I'M A
6 THIRD-GENERATION CITY EMPLOYEE. MY GRANDFATHER USED TO BE ON
7 TRUCKS, THE BACK OF TRUCKS, THE SANITATION DEPARTMENT. AS I
8 GROW OLDER, HE RETIRED. HE ONCE TOLD ME, YOU WANT TO BE IN
9 CITY, YOU WANT TO USE THIS AND NOT YOUR HANDS. SO I TOOK THAT
10 ACCOUNTABILITY. I HAVE UNCLES IN THE CITY. IT'S A FAMILY
11 THING, SIR.

12 Q. YOU SAID, "USE THIS," AND YOU WERE POINTING TO YOUR HEAD?

13 A. YES, SIR.

14 Q. MEANING YOU GOT TO THINK?

10:20:37

15 A. YES, SIR.

16 Q. HOW MANY TIMES DID YOU HAVE TO APPLY TO THE CITY BEFORE
17 GETTING HIRED?

18 A. I APPLIED SIX OR SEVEN TIMES, COMMUNITY SERVICE CENTER.

19 Q. ABOUT HOW LONG DID IT TAKE YOU, THAT APPLICATION PROCESS,
20 TO ACTUALLY GETTING HIRED?

21 A. MORE THAN SIX MONTHS.

22 Q. OKAY. AND WERE YOU CHOOSING WHERE YOU WERE GETTING PLACED
23 SIR, YOUR FIRST JOB?

24 A. NO, SIR.

25 Q. AND WHERE WAS THAT?

10:21:05 1 A. OFFICE OF THE CITY CLERK, 202 "C" STREET, DOWNTOWN SAN
2 DIEGO.
3 Q. AT THE TIME OF YOUR HIRE, WHAT WAS YOUR CLASSIFICATION?
4 A. STOCK CLERK.
5 Q. NOW, SOME OF THESE TERMS ARE SOMEWHAT UNIQUE TO THE CITY
6 SUCH AS "CLASSIFICATION." WHAT IS YOUR JOB CLASSIFICATION NOW,
7 SIR?
8 A. ADMINISTRATIVE ASSISTANT TWO.
9 Q. IS A CLASSIFICATION THE SAME AS A JOB TITLE?
10 A. NO, SIR.
11 Q. HOW ARE THEY DIFFERENT?
12 A. JOB TITLE IS YOUR WORKING TITLE. CLASSIFICATION IS HOW THE
13 CITY COMPENSATES YOU, HOW MUCH YOU GET PAID, SIR.
14 Q. UNDER THE CLASSIFICATIONS, ARE THERE DIFFERENT STEPS?
10:21:44 15 A. YES, SIR.
16 Q. AND BY STEPS, WE MEAN RATES OF PAY?
17 A. YES, SIR.
18 Q. IS A JOB TITLE DIFFERENT THAN JOB DUTIES?
19 A. YES.
20 Q. MEANING A TITLE DOESN'T NECESSARILY DESCRIBE WHAT YOU DO?
21 A. YES, SIR.
22 Q. AS A STOCK CLERK, DO YOU REMEMBER WHO THE CITY CLERK WAS
23 WHEN YOU WERE FIRST HIRED?
24 A. YES.
25 Q. WHO WAS?

10:22:06

1 A. CHUCK ABDINOOR.

2 Q. ALL RIGHT. DID YOU EVER WORK UNDER KATHY JOY?

3 A. YES, SIR.

4 Q. WHAT CAPACITY WAS SHE IN?

5 A. DEPUTY DIRECTOR OF RECORDS MANAGEMENT.

6 Q. FOR HOW LONG DID YOU WORK UNDER MS. JOY?

7 A. COUPLE YEARS, TWO YEARS.

8 Q. APPROXIMATELY WHAT TIMEFRAME?

9 A. 2004 TO 2006.

10 Q. SHE WAS YOUR DIRECT SUPERVISOR?

11 A. YES.

12 Q. DID SHE RETIRE?

13 A. YES.

14 Q. AFTER SHE RETIRED, DID YOU STAY IN CONTACT WITH HER SOME?

10:22:38

15 A. YES.

16 Q. WHY?

17 A. SHE WAS MY MENTOR. SHE WAS A MEMBER OF MY HIRING PANEL TO
18 HER RETIREMENT. SO SHE ALWAYS LOOKED OUT TO ME, TAUGHT ME WHAT
19 I KNEW IN RECORDS MANAGEMENT.

20 Q. IT'S BEEN ESTABLISHED, AT LEAST REPRESENTED IN OPENING
21 STATEMENTS, NOT ARGUMENTS, THAT YOU WORKED IN THE CLERK'S
22 OFFICE FROM 2004 UNTIL APRIL 2016; IS THAT CORRECT?

23 A. THAT'S CORRECT.

24 Q. AND DURING THAT 12-YEAR TIMEFRAME, DID YOU REPORT TO WORK
25 IN ROUGHLY THE SAME LOCATION?

10:23:16

1

A. YES, SIR.

2

Q. AND DESCRIBE WHERE THAT LOCATION IS, SIR?

3

A. 202 "C" STREET. IT'S ADJACENT TO CITY HALL, RIGHT NEXT TO

4

THE CITY CAFE.

5

Q. CITY CAFE; IS THAT THE CONCOURSE, IF YOU WILL?

6

A. YES.

7

Q. IS YOUR ENTRY TO YOUR OFFICE RIGHT BY THE ELECTION HALL?

8

A. YES.

9

Q. GOLDEN HALL, IS THAT WHAT IT'S CALLED?

10

A. GOLDEN HALL.

11

Q. GOLDEN HALL. AND WE HAVE A PICTURE, IF I COULD JUST SHOW

12

IT TO THE WITNESS FIRST, AND FOR THE RECORD, YOUR HONOR, THIS

13

IS EXHIBIT 25.

14

THE COURT: ALL RIGHT.

10:23:53

15

BY MR. VANDERPOOL:

16

Q. PAGE THREE, DO YOU RECOGNIZE THIS PICTURE, SIR?

17

A. YES, SIR.

18

Q. WERE YOU THERE WHEN IT WAS TAKEN?

19

A. YES, SIR.

20

Q. I OFFER 25. MAY IT BE PUBLISHED?

21

THE COURT: YES. I THINK IT'S IN, ISN'T IT?

22

MR. SCHAEFER: NO. THIS ONE IS NOT IN, YOUR HONOR.

23

THE COURT: ANY OBJECTION?

24

MR. SCHAEFER: NOT TO THAT PARTICULAR PAGE, BUT THE

25

OTHER PARTS OF THE EXHIBIT THE CITY OBJECTS ON THE GROUND

10:24:14

1 LACK OF FOUNDATION.

2 THE COURT: ALL RIGHT. LET'S DEAL WITH THIS ONE, AND
3 THEN WE'LL TALK ABOUT THE OTHER AFTERWARDS. OKAY.

4 MR. VANDERPOOL: THANK YOU. PUBLISH THIS PARTICULAR
5 PHOTO FOR THE JURY, PLEASE.

6 BY MR. VANDERPOOL:

7 Q. IS THIS THE ENTRANCE TO THE CLERK'S OFFICE, SIR?

8 A. NO.

9 Q. WHAT IS THIS?

10 A. THAT'S THE ENTRY TO THE RECORDS CENTER.

11 Q. RECORDS CENTER. HOW LONG DID YOU REPORT TO WORK IN THE
12 RECORDS CENTER?

13 A. SINCE DECEMBER OF 2007.

14 Q. OKAY. LET'S TAKE THAT DOWN. AND JUST PUBLISH TO THE

10:24:56

15 WITNESS ONLY PLEASE AND COUNSEL EXHIBIT 25, PAGE TWO; DO YOU
16 RECOGNIZE THIS PHOTO, SIR?

17 A. VERY WELL, SIR. YES, SIR.

18 Q. WERE YOU PRESENT WHEN THIS PHOTO WAS TAKEN?

19 A. YES, SIR.

20 Q. APPROXIMATELY WHEN?

21 A. A COUPLE YEARS AGO, SIR.

22 Q. WHO TOOK THE PHOTO?

23 A. JON CADIEUX.

24 Q. COUNSEL TO MY RIGHT?

25 A. YES, SIR.

10:25:22

1 Q. WHAT IS THIS DEPICTED IN THIS PHOTO?

2 A. THIS IS THE RECORDS CENTER.

3 THE COURT: ALL RIGHT. WELL, IT WAS NOT MADE A PART
4 OF THE ORIGINAL EXHIBITS, AND THIS IS WHAT I WAS TRYING TO GET
5 AWAY FROM IS TO BE AUTHENTICATING PHOTOGRAPHS DURING TRIAL. IT
6 JUST WASTES EVERYBODY'S TIME. THIS WITNESS CAN AUTHENTICATE
7 IT, BUT LET ME -- IS YOUR OBJECTION ONLY THAT IT WASN'T
8 ORIGINALLY PRODUCED OR THAT IT REALLY ISN'T AS IT'S DEPICTED?

9 MR. SCHAEFER: WELL, FOUNDATION AS TO TIME. I
10 UNDERSTAND HIS LAWYER TOOK THIS PICTURE, BUT I DON'T KNOW WHEN
11 THIS PICTURE WAS TAKEN.

12 THE COURT: WELL, HE CAN MAYBE LAY THE FOUNDATION.
13 IF HE CAN'T, WE'LL KEEP IT OUT. WHEN WAS IT MADE?

10:26:17

14 THE WITNESS: ROUGHLY TWO YEARS AGO, SIR, TWO OR
15 THREE.

16 THE COURT: WERE YOU PRESENT AT THE TIME?

17 THE WITNESS: YES SIR.

18 THE COURT: WHERE DID THIS PICTURE COME FROM, FROM
19 YOUR RECORDS OR FROM THE CITY'S RECORDS?

20 THE WITNESS: I BELIEVE OUR RECORDS, SIR.

21 THE COURT: YOU PRODUCED IT?

22 THE WITNESS: MY ATTORNEYS DID, SIR.

23 THE COURT: YOU KNOW, I THINK THE -- YOU KNOW, IT'S A
24 PICTURE OF THE CLERK'S OFFICE, THE CLERK'S MISSION, IT'S TWO
25 YEARS OLD APPARENTLY. FROM THE STANDPOINT OF JUST THE PICTURE,

10:26:52

1 I'LL ALLOW IT BECAUSE I BELIEVE IT'S RELIABLE, BUT THIS IS THE
2 LAST ONE I WANT FOR EXHIBITS UNLESS THERE'S SOME EMERGENCY THAT
3 POPS UP THAT HAVEN'T BEEN ALREADY MARKED. BUT I'LL ALLOW THIS
4 ONE.

5 MR. VANDERPOOL: SORRY, YOUR HONOR. THIS HAS BEEN
6 MARKED.

7 THE COURT: WELL, I MEAN PRODUCED FOR THE PURPOSE OF
8 TRIAL. IT SHOULD HAVE BEEN PART OF THE GROUP THAT WE ALL
9 MARKED YESTERDAY I THINK IT WAS OR THE OTHER DAY, AND IT SHOULD
10 HAVE BEEN MARKED THEN SO THAT WE'RE NOT DOING THIS NOW, AND
11 THIS IS WHAT DELAYS TIME. ANYWAY, GO AHEAD.

12 MR. VANDERPOOL: I'M SORRY, YOUR HONOR. JUST FOR THE
13 RECORD, IT WAS MARKED, YOUR HONOR, ACCORDING TO THE COURT'S
14 RULES DISCLOSED AND FULLY AMONG THE EXHIBIT BINDERS.

10:27:39

15 THE COURT: SHE JUST DIDN'T HAPPEN TO GET IT DOWN? I
16 MEAN, SHE WROTE DOWN ALL THE EXHIBITS THAT WERE GOING TO BE
17 BROUGHT IN I BELIEVE.

18 MR. VANDERPOOL: YOUR HONOR, THIS WAS ONE THAT WE
19 NOTED AN OBJECTION TO. SO IT WASN'T STIPULATED TO.

20 THE COURT: OH, I GOT IT. OKAY. OKAY. ANYWAY, IT'S
21 ADMISSIBLE.

22 MR. VANDERPOOL: THANK YOU. PUBLISH THE PHOTO
23 PLEASE.

24 (EXHIBIT 25 ADMITTED.)

25 BY MR. VANDERPOOL:

10:27:58

1 Q. IS THIS WHERE YOU REPORTED TO WORK, SIR?

2 A. YES, SIR.

3 Q. DOES IT DEPICT YOUR OFFICE IN THIS PARTICULAR PHOTO?

4 A. NO, SIR.

5 Q. OKAY. THE CLERK'S MISSION, IS THAT SOME KIND OF BANNER?

6 A. YES, SIR.

7 Q. WHEN YOU REPORTED TO WORK -- BY THE WAY, WAS THE CITY'S
8 INVESTIGATOR PRESENT WHEN THIS PICTURE WAS TAKEN?

9 A. YES, SIR.

10 Q. THAT GENTLEMAN RIGHT HERE OR SOMEBODY ELSE?

11 A. I'M NOT FAMILIAR WITH THE FACES FROM THAT TIME PERIOD.

12 Q. WAS THE CITY LAWYER THERE, CITY ATTORNEY?

13 A. THERE WAS A COUPLE CITY EMPLOYEES.

14 Q. PRESENT WHEN THE PHOTOS WERE TAKEN?

10:28:31

15 A. YES, SIR.

16 Q. OKAY. SO WHAT ARE WE LOOKING AT, THESE ROOMS AND OFFICES,
17 DESKS HERE?

18 A. OKAY. FRONT COUNTER AREA IS WHERE CITY EMPLOYEES FROM
19 OTHER DEPARTMENTS PICK UP OR RETURN AN ACT OF RECORDS TO THE
20 RECORDS CENTER. THOSE ARE PROCESSED AND RETURNED TO ONE OF THE
21 TEN STORAGE SITES. YOU SEE VARIOUS RECORDS IN THE BACK;
22 MISSION STATEMENT TO PROVIDE OUR ACCURATE INFORMATION AND
23 MAXIMIZE ACCESS TO MUNICIPAL GOVERNMENT THAT I PLACED MYSELF.
24 THAT'S ABOUT IT, SIR. KITCHEN AREA IN THE BACK.

25 Q. IS THIS A GROUND FLOOR OFFICE, SIR?

10:29:22

1 A. YES, SIR.

2 Q. ARE THEIR BASEMENT FACILITIES BELOW GROUND FOR RECORDS
3 MANAGEMENT?

4 A. YES, SIR.

5 Q. AND WHERE DID YOU, WHILE YOU WERE SUPERVISORY DUTIES PRIOR
6 TO 2015, REPORT TO WORK RELATIVE TO THIS PHOTO?

7 A. IT'S OFF CAMERA, BUT IT WOULD BE TO THE RIGHT OF THIS
8 PICTURE.

9 Q. WHEN DID YOU COMMENCE WORKING FOR SHEILA BEALE?

10 A. I STARTED WORKING FOR SHEILA BEALE IN 2005, I BELIEVE.

11 Q. DO YOU REMEMBER WHAT HER JOB CLASSIFICATION WAS THEN?

12 A. AT THAT TIME, RECORDS MANAGEMENT ANALYST.

13 Q. AND WHAT WAS YOUR CLASSIFICATION AT THAT TIME?

14 A. RECORDS STOCK CLERK.

10:30:05

15 Q. NOW YES OR NO, DID YOU SUBMIT AN EEO POLICY COMPLAINT
16 NAMING MRS. BEALE IN SEPTEMBER 2015?

17 A. YES, SIR.

18 Q. I WANT TO FOCUS ON THE SIX YEARS APPROXIMATELY BEFORE YOU
19 SUBMITTED THAT COMPLAINT. DID DEPUTY DIRECTOR BEALE, WHILE SHE
20 WAS SUPERVISOR DURING THAT TIME, PERIODICALLY REVIEW YOUR
21 PERFORMANCE?

22 A. YES, SIR.

23 Q. HOW OFTEN?

24 A. ANNUALLY.

25 Q. DID SHE DO IT IN WRITING?

10:30:31

1 A. YES, SIR.

2 Q. OVER THAT SIX-YEAR PERIOD OF TIME, MEANING LEADING UP TO,
3 LET'S TAKE IT THROUGH AUGUST OF 2015, DID DEPUTY DIRECTOR BEALE
4 COMPLIMENT YOUR JOB PERFORMANCE?

5 A. YES, SIR.

6 Q. DURING THAT SAME TIME PERIOD, DID SHE RECOMMEND YOU FOR
7 PROMOTIONS?

8 A. YES, SIR.

9 Q. HOW MANY PROMOTIONS DID YOU RECEIVE WHILE WORKING UNDER
10 DEPUTY DIRECTOR BEALE BEFORE SEPTEMBER 2015?

11 A. TWO.

12 Q. WHICH ONES?

13 A. MY PROMOTION TO ADMINISTRATIVE ASSISTANT ONE AND TO
14 ADMINISTRATIVE ASSISTANT TWO, SIR.

10:31:09

15 Q. WAS ADMINISTRATIVE AIDE ONE PROMOTION IN 2007?

16 A. YES.

17 Q. WAS ADMIN AIDE TWO IN 2012 OR 2013?

18 A. I BELIEVE IT WAS 2013, SIR.

19 Q. PRIOR TO SEPTEMBER 2015, DID DEPUTY DIRECTOR BEALE
20 RECOMMEND YOU FOR MERIT PAY INCREASES?

21 A. YES, SIR.

22 Q. HOW MANY MERIT PAY INCREASES DID SHE RECOMMEND YOU FOR?

23 A. I BELIEVE ABOUT TWO.

24 Q. DID ONE OF THOSE INCLUDE AN EXCEPTIONAL, QUOTE, UNQUOTE,
25 MERIT PAY INCREASE IN 2014?

10:31:42

1 A. YES, SIR.

2 Q. AND BY "MERIT," WE MEAN BASED ON THE QUALITY OF YOUR
3 PERFORMANCE?

4 A. YES, SIR.

5 Q. PRIOR TO SEPTEMBER 2015, DID DEPUTY DIRECTOR BEALE
6 RECOMMEND YOU FOR ANY COMMENDATIONS?

7 A. YES, SIR.

8 Q. HOW MANY?

9 A. I BELIEVE TWO, SIR.

10 Q. WHAT COMMENDATIONS DID SHE RECOMMEND YOU FOR?

11 A. EMPLOYEE OF THE QUARTER, OFFICE OF THE CITY CLERK.

12 Q. SO OUT OF SOME 40, 45 EMPLOYEES?

13 A. YES, SIR.

14 Q. WHAT YEARS WERE THOSE COMMENDATIONS RECOMMENDED BY YOUR
15 SUPERIOR, MRS. BEALE?

10:32:16

16 A. I'M NOT SURE OF THE EXACT DATES, BUT IT WAS TWO.

17 Q. OKAY. I'D LIKE TO SHOW YOU WHAT HAS BEEN MARKED AS EXHIBIT
18 13 AND IS STIPULATED ADMISSIBLE. NOW THE TITLE, OFFICE OF THE
19 CITY CLERK ORGANIZATIONAL CHART, SIR, JUST FOR SAKE OF -- WHEN
20 COUNSEL FOR THE CITY WAS SHOWING A COLORED CHART INDICATING IT
21 WAS CREATED, HAD YOU EVER SEEN THAT COLORED CHART WHILE YOU
22 WORKED IN THE CLERK'S OFFICE?

23 A. NO, SIR.

24 Q. FIRST TIME YOU EVER SEEN THAT COLORED CHART BY COUNSEL WAS
25 IN THIS CASE?

10:32:57

1 A. YES, SIR.

2 Q. I SEE. AS TO EXHIBIT 13, SIR, WAS THIS AN ORGANIZATIONAL
3 CHART PREPARED BY THE CLERK'S OFFICE?

4 A. YES, SIR.

5 Q. NOT BY LAWYERS, RIGHT?

6 A. NO. THIS IS THE CLERK'S OFFICE.

7 (EXHIBIT 13 ADMITTED.)

8 Q. LET'S TAKE A LOOK AND HIGHLIGHT -- THANK YOU, ELYSIA -- BY
9 THE WAY, SIR, THE TIMEFRAME OF THIS ORGANIZATIONAL CHART,
10 WHAT'S YOUR MEMORY ABOUT SHOWING THESE JOB REPORTING
11 STRUCTURES? WHAT'S THE TIMEFRAME OF THIS ORGANIZATIONAL
12 CHART?

13 A. SUMMER 2015.

10:33:36

14 Q. ALL RIGHT. AND SO DOES THIS CORRECTLY STATE THE DIRECT
15 REPORTS TO SHEILA BEALE PRIOR TO SEPTEMBER 2015?

16 A. YES, SIR.

17 Q. SO WE HAVE ASSOCIATE MANAGEMENT ANALYST IS SABRINA TATUM,
18 RECORDS; CORRECT?

19 A. YES.

20 Q. THEN WE HAVE YOU IN THE MIDDLE, ADMINISTRATIVE AIDE TWO,
21 THAT'S YOUR CLASSIFICATION?

22 A. CORRECT.

23 Q. WE'LL COME BACK TO WHAT'S IN PARENTHESES. THEN TO THE
24 RIGHT IS ASSOCIATE MANAGEMENT ANALYST RECORDS ELENA MENDOZA?

25 A. CORRECT.

10:34:04

1 Q. DO YOU KNOW, SIR, WHETHER THE ASSOCIATE MANAGEMENT ANALYST,
2 ARE THOSE CLASSIFICATIONS?

3 A. THOSE ARE CLASSIFICATIONS.

4 Q. ARE THOSE CLASSIFICATIONS, IN TERMS OF THE CITY'S
5 STRUCTURE, HIGHER OR LOWER THAN ADMINISTRATIVE AIDE TWO?

6 A. THEY ARE HIGHER, SIR.

7 Q. SO UNDER YOUR NAME, SIR, OR UNDER YOUR CLASSIFICATION,
8 IMAGING AND RECORDS PRESERVATION SUPERVISOR, WHAT WOULD YOU
9 TERM THOSE? JOB TITLES OR RESPONSIBILITIES?

10 A. THOSE ARE MY JOB TITLES, SIR.

11 Q. AND I THINK I ESTABLISHED IT, BUT AS OF THIS TIMEFRAME,
12 PRIOR TO SEPTEMBER 2015, AGAIN, RIGHT ABOUT END OF AUGUST 2015,
13 HOW MANY EMPLOYEES IN TOTAL IN THE CLERK'S OFFICE?

14 A. 44.

10:34:54

15 Q. YOUR ADMIN, ADMINISTRATIVE AIDE TWO POSITION, IS THAT
16 SALARY OR HOURLY? AND I DON'T WANT THE AMOUNT.

17 A. HOURLY.

18 Q. AS OF THAT POINT IN TIME, WHAT WAS YOUR GROSS ANNUAL
19 SALARY?

20 A. AROUND 44 --

21 MR. SCHAEFER: OBJECTION, YOUR HONOR. RELEVANCE.

22 THE COURT: PARDON ME?

23 MR. SCHAEFER: RELEVANCE.

24 THE COURT: OVERRULED. BUT YOU'LL HAVE TO SPEAK A
25 LITTLE LOUDER WHEN YOU FIRST JUMP UP.

10:35:28

1 MR. SCHAEFER: I'LL MOVE THIS UP, YOUR HONOR.

2 THE WITNESS: 44,000.

3 BY MR. VANDERPOOL:

4 Q. LET'S TALK, SIR, FOR A MOMENT ABOUT YOUR JOB TITLE AND ITS
5 DUTIES WITH RESPECT TO RECORDS PRESERVATION SUPERVISOR. WE'RE
6 TALKING ABOUT SEPTEMBER 2015, RIGHT BEFORE YOUR COMPLAINT.

7 WHAT DID THAT ENTAIL?

8 A. MY TITLE. I WAS RESPONSIBLE FOR THREE DIFFERENT SECTIONS
9 WITHIN THE CITY CLERK'S RECORDS MANAGEMENT DIVISION. IMAGING
10 IS A SECTION WHERE WE FILM VITAL AND HISTORICAL RECORDS
11 UTILIZING AN ARCHIVE WRITER. IT TAKES 16 MILLIMETER FILM OF
12 PAPER COPY. ALSO, WE HAVE HIGH SPEED SCANNERS. WE SCAN
13 RESOLUTIONS, ORDINANCES, CITY MINUTES, SEGMENTS OF ECONOMIC
14 INTEREST, SO ON AND SO FORTH. WITHIN 30 MINUTES, WE CAN HAVE
10:36:34 15 IT PRODUCED WITHIN THE CITY, FOR PEOPLE CAN SEE IT WITHOUT
16 COMING DOWNTOWN.

17 IN THE BASEMENT IS ANOTHER SECTION. THAT'S OUR
18 ARCHIVE CENTER. THAT'S WHAT HOUSE OUR HISTORICAL BOOKS, MAPS,
19 THINGS WE WANT TO PRESERVE AND KEEP SAFE. THERE'S A
20 TEMPERATURE HUMIDITY CONTROLLED ROOM IN THE BASEMENT WHERE WE
21 HOUSE THESE THINGS. THEY'RE CATALOGED, TAGGED, FOR WE CAN
22 IDENTIFY IT WITHIN THE RECORDS MANAGEMENT SYSTEM. LAST BUT NOT
23 LEAST IS THE MAIN RECORDS CENTER. THAT'S WHERE CITY EMPLOYEES
24 WOULD MAKE RECORDS REQUESTS FROM THE CITY CLERK'S OFFICE,
25 SECOND FLOOR. WE WOULD GET THE CORRESPONDENCE AND MAKE THAT

10:37:14

1 RETRIEVAL IN ONE OF THE TEN STORAGE SITES, AND WE BRING IT BACK
2 INTO THE RECORDS CENTER UPON HAVING THEM READY FOR THEM TO PICK
3 IT UP, AND THEN DO THE REVERSE WHEN THEY'RE DONE WITH IT. THAT
4 HAS -- THE CORNERSTONE OF OUR RECORDS MANAGEMENT DIVISION IS
5 THAT RECORDS CENTER.

6 Q. THANK YOU. I JUST WANT TO MAKE SURE I GET THIS IF YOU
7 HAVEN'T ALREADY JUST IDENTIFIED IT. WHAT SYSTEMS DID YOU
8 UTILIZE, HARDWARE OR SOFTWARE, FOR RECORDS PRESERVATION?

9 A. FOR RECORDS PRESERVATION, WE USE KOFAX CAPTURE. WHEN I
10 LEFT IT WAS VERSION TEN, WHERE IT WOULD TAKE THE IMAGE AND USE
11 OCR, OPTICAL CHARACTER RECOGNITION, TO READ THE DOCUMENT FOR IT
12 COULD BE SEARCHABLE ONLINE. ALSO, IN ASPECTS OF THE ARCHIVER,
13 IT WOULD BE KODAK SOFTWARE, INSTALLATION SOFTWARE.

14 Q. THANK YOU. HOW MANY EMPLOYEES DID YOU SUPERVISE AS RECORDS
15 PRESERVATION SUPERVISOR?

10:38:16

16 A. JUST TWO.

17 Q. SO THEN YOUR OTHER JOB TITLE IS IMAGING SUPERVISOR; AM I
18 CORRECT?

19 A. YES.

20 Q. HOW IS -- IF YOU COULD EXPLAIN TO THE JURY WHAT IMAGING
21 SUPERVISOR, WHAT THOSE JOB DUTIES WERE DISTINCT FROM
22 PRESERVATION?

23 A. THE MAIN DISTINCTION IS IN FACT THERE IS A PROJECT THAT HAD
24 INTEL TWO. WE WORK WITH OUR CEMETERIES. ONE WAS MOUNT HOPE.
25 I WAS RESPONSIBLE FOR IMAGING ALL THE BURIAL TICKETS AND ALSO

10:38:49

1 THEIR MAPPING OF THE MOUNT HOPE CEMETERY. WE'LL PUT IN AN
2 ANALOG, EITHER 16 MILLIMETER OR 32 MILLIMETER MICROFILM, AND
3 THEN ON THE OPPOSITE SIDE WOULD BE THE SCANNING. SO ANYTHING
4 THAT WE CAN ACTUALLY PHYSICALLY SCAN WITHOUT CAUSING DAMAGE, WE
5 UTILIZE THAT; CREATES A PDF, AND THEN WORKING WITH THE I.T.
6 TEAM, THEY CORRELATE THIS AND MAKE IT PUBLIC FACING.

7 Q. THANK YOU, SIR. BEFORE SEPTEMBER 2015, WHAT DID YOU LIKE
8 ABOUT WORKING IN THE CLERK'S OFFICE?

9 A. BEFORE THAT, ATMOSPHERE WAS WONDERFUL. THE PROJECTS WAS
10 JUST GREAT. I SEEN THE VISION, BACK WHEN KATHY JOY WAS DEPUTY
11 DIRECTOR, OF HAVING THE ABILITY TO HAVE OUR CITIZENS BE ABLE TO
12 FIND OUR RECORDS ON SCREEN AT HOME IN THEIR PJ'S RATHER THAN
13 COMING DOWNTOWN. ESPECIALLY LIKE A RAINY DAY LIKE THIS, IT
14 WOULD BE PRETTY HECTIC. BUT TO BE ABLE TO HAVE THE INFORMATION
15 WE HAD IN OUR STORAGE SITES, WE HAD TEN, AND PUT THEM IN A
16 REPOSITORY FOR ALL OF US CAN USE AT HOME, IT WAS A GREAT THING,
17 AND I WANTED TO SEE IT TO THE END. IT WAS MY BABY.

10:39:48

18 Q. WHAT ELSE DID YOU LIKE BESIDES THAT, IF ANYTHING, ABOUT
19 WORKING AT THE CLERK'S OFFICE?

20 A. IT WAS IN THE MIDDLE OF DOWNTOWN. EVERY MAYOR FROM MAYOR
21 MURPHY, MAYOR SANDERS, THEY ALL KNEW ME. I SEE THEM AND THEIR
22 STAFF. ANOTHER PORTION IS WE COLLECT OLDER ARTIFACTS FROM THE
23 MAYOR'S OFFICE. PER CITY STANDARD, THEY CAN'T KEEP IT. SO
24 WHAT THEY DO IS THEY TRANSFER IT TO THE CITY CLERK'S OFFICE.
25 WE TAG IT AND WRAP IT UP, AND WE PUT IT AWAY. SO JUST TO BE IN

10:40:39

1 THE ASPECT OF JUST NOT WORKING FOR A LOGO, YOU'RE WORKING FOR
2 EVERYONE. AND YOU SEE PEOPLE COME AND GO. THAT DEPARTMENT IS
3 WHERE PEOPLE START THEIR POLITICAL CAREER. SO WE SEE IT FROM
4 BEGINNING TO END.

5 Q. AS OF THAT POINT IN TIME, SIR, BEFORE YOUR COMPLAINT, WHAT
6 WAS THE NEXT HIGHER JOB CLASSIFICATION AVAILABLE TO YOU?

7 A. IT WOULD BE THE ANALYST SERIES. I WAS TAPPED OUT IN MY
8 CLASSIFICATION. IT WOULD BE ASSOCIATE MANAGEMENT ANALYST OR
9 ASSISTANT MANAGEMENT ANALYST, RESPECTFULLY.

10 Q. SO AS WE'RE LOOKING AT EXHIBIT 13, THE CLASSIFICATIONS, TWO
11 OF THEM OR I GUESS ONE OF THEM, WAS HELD BY MS. TATUM AND MS.
12 MENDOZA?

13 A. YES, SIR.

14 Q. AND THOSE REQUIRE PROMOTION APPLICATIONS TO PROMOTE?

10:41:23

15 A. YES, SIR.

16 Q. AS OF SEPTEMBER 2015, DID YOU MEET THE EDUCATIONAL OR OTHER
17 REQUIREMENTS TO PURSUE SUCH A PROMOTION?

18 A. YES, SIR.

19 Q. AND AS OF SEPTEMBER 2015, WHAT DID YOU FEEL WAS YOUR
20 PROMOTIONAL OUTLOOK?

21 A. IT WAS BRIGHT. I'VE BEEN IN THE DEPARTMENT SINCE MY
22 BEGINNING. I LEARNED EVERY FUNCTION. I TOOK, THE MACHINES
23 THAT WE USED, THE MANUALS HOME TO STUDY. I PUT MYSELF IN THAT
24 JOB.

25 Q. YOUR HONOR, I'LL MOVE ON, BUT IS NOW A GOOD TIME FOR A

10:42:02

1 BREAK?

2 THE COURT: THAT'S A GOOD IDEA. LET'S TAKE ABOUT A
3 TEN-MINUTE BREAK, LADIES AND GENTLEMEN. TRY TO BE BACK AS
4 SOON AS YOU CAN, AND WE'LL PROCEED.

5 (RECESS.)

6 MR. VANDERPOOL: MAY I PROCEED, YOUR HONOR.

7 THE COURT: SURE.

8 MR. VANDERPOOL: THANK YOU.

9 BY MR. VANDERPOOL:

10 Q. MR. JOHNSON, I WANT TO SKIP FORWARD IN TIME TO THE SPRING
11 OF 2016, DID YOU RECEIVE THE WRITING REFERRED TO AT OPENING
12 STATEMENT BY HAROLD BARCLAY RELATIVE TO HIS OFFICE'S
13 INVESTIGATION OF YOUR EEO COMPLAINT?

14 A. YES.

10:58:44

15 Q. COULD WE LOOK AT EXHIBIT 5 PLEASE, ELYSIA. IS THAT YOUR
16 HOME ADDRESS, MR. JOHNSON?

17 A. AT THE TIME, SIR.

18 (EXHIBIT 5 ADMITTED.)

19 Q. I'M SORRY?

20 A. AT THE TIME IT WAS MY ADDRESS.

21 Q. AT THE TIME. MR. CADIEUX TOLD US IN OPENING STATEMENT THAT
22 YOU GOT THIS AT A BOX AT WORK, OR DID IT COME TO YOUR HOUSE?

23 A. IT CAME TO MY HOME.

24 Q. CAME TO YOUR HOME. HOW LONG HAD YOU WAITED FOR THIS
25 LETTER?

10:59:26

1 A. MORE THAN SIX MONTHS.

2 Q. IF YOU COULD LOOK -- ELYSIA, HIGHLIGHT THE, "PLEASE BE
3 ADVISED." MADAM CLERK, IF WE COULD PUBLISH EXHIBIT 5. THANK
4 YOU. I'D LIKE TO HIGHLIGHT THE, "PLEASE ADVISE." DID YOU LIKE
5 WHAT YOU READ ABOUT SUFFICIENT EVIDENCE EXISTING TO SUPPORT
6 YOUR ALLEGATIONS?

7 A. YES, SIR.

8 Q. THEN IT GOES ON IN THE NEXT PARAGRAPH TO SAY, YOU MAY
9 APPEAL THIS DECISION TO THE CIVIL SERVICE COMMISSION,
10 ET CETERA. DID YOU CONSIDER APPEALING THE DECISION?

11 A. NO.

12 Q. WHY NOT?

13 A. BECAUSE IT WAS IN MY FAVOR.

11:00:26

14 Q. OKAY. WELL, AS OF THE TIMEFRAME, AND I WANT TO FOCUS ON
15 THIS FOR A BIT IF YOU CAN BEAR WITH ME, FROM DECEMBER 15TH,
16 2015, UNTIL APRIL 2016, DO YOU HAVE THAT TIMEFRAME IN MIND,
17 SIR?

18 A. YES, SIR.

19 Q. SO UNDERSTANDING THE TIMEFRAME, AS OF MARCH 2016, WHEN YOU
20 GOT THIS LETTER FROM MR. BARCLAY, WERE YOU STILL REPORTING TO
21 DEPUTY DIRECTOR BEALE?

22 A. NO, SIR.

23 Q. WHO WERE YOU REPORTING TO?

24 A. ELENA MENDOZA.

25 Q. WE HEARD REFERENCE TO MS. MENDOZA AND YOUR FINDING OUT

11:01:10 1 ABOUT REPORTING TO HER. WHEN DID YOU LEARN THAT REPORTING TO
2 HER WAS AN OPTION?

3 A. IN THE BEGINNING OF 2016.

4 Q. OKAY. AND HOW DID YOU FIRST LEARN THAT CHANGING YOUR
5 SUPERIOR WAS AN OPTION?

6 A. I MADE COMMUNICATIONS WITH MY UNION REP, KELLY CRUZ.

7 Q. AND IT CAME UP WITH KELLY CRUZ?

8 A. YES.

9 Q. AND WERE YOU GIVEN AN OPTION OF WHICH DIFFERENT SUPERIOR
10 SUPERVISOR YOU COULD REPORT TO?

11 A. NO, SIR.

12 Q. YOU WEREN'T GIVEN THE OPTION OF REPORTING TO MS. TATUM?

13 A. NO, SIR.

14 Q. PRIOR TO HEARING THAT FROM MS. CRUZ OR EVEN AFTER HEARING
11:01:53 15 THAT FROM MS. CRUZ, DID ANYBODY IN THE CLERK'S OFFICE -- MS.
16 BEALE, MS. MALAND -- TALK TO YOU ABOUT THE CHANGE IN A
17 SUPERIOR?

18 A. NO, SIR.

19 Q. DID ANYONE IN THE CLERK'S OFFICE ASK YOU IF YOU WERE OKAY
20 WITH THAT CHANGE IN SUPERIOR?

21 A. NO, SIR.

22 Q. ALL RIGHT. NOW WAS THE CHANGE IN A SUPERIOR THE SAME AS
23 CHANGING YOUR JOB RESPONSIBILITIES?

24 A. NO, SIR.

25 Q. I'D LIKE TO SHOW YOU WHAT'S BEEN STIPULATED TO, MY

11:02:33

1 UNDERSTANDING, EXHIBIT 19, THE AUTO-RESPONSE E-MAIL, AM I
2 CORRECT COUNSEL, SHOWED IT IN OPENING STATEMENT?

3 MR. SCHAEFER: YES; WE STIPULATED TO THAT
4 YESTERDAY.

5 MR. VANDERPOOL: THANK YOU. IF YOU WOULD GO, ELYSIA,
6 TO THE BOTTOM OF THIS EXHIBIT PLEASE. THERE YOU GO.

7 (EXHIBIT 19 ADMITTED.)

8 BY MR. VANDERPOOL:

9 Q. IS THAT YOUR MUG THERE, SIR, YOUR FACE?

10 A. THAT'S MY MUG, SIR.

11 Q. IT SAYS, RASEAN JOHNSON IMAGING SUPERVISOR, AND THERE'S
12 DOTS. AS OF THE DATE OF THIS E-MAIL, DID YOU UNDERSTAND YOU'RE
13 THE IMAGING SUPERVISOR?

14 A. I THOUGHT I WAS, SIR.

11:03:11

15 Q. YOU THOUGHT YOU WERE. IF WE GO TO THE TOP OF THE E-MAIL,
16 SHOW THE DATE PLEASE; SO, CORRECT, IT SHOWS THIS IS AN E-MAIL
17 FROM, OR TO YOU BACK FROM SHEILA BEALE'S CITY E-MAIL?

18 A. CORRECT, SIR.

19 Q. IT LOOKS LIKE THE SUBJECT LINE IS, "ASSISTANCE WITH PULLS."
20 WHAT DOES "ASSISTANCE WITH PULLS" MEAN?

21 A. THE EXTRACTION OF REQUESTED RECORDS FROM STORAGE SITES
22 TYPICALLY SOME STOCK CLERK WOULD DO.

23 Q. OKAY. DOWN IN THE E-MAIL ABOUT THE AUTO-RESPONSE, IT HAS
24 IMAGING SECTION?

25 A. YES, SIR.

11:03:54 1 Q. AND IT SAYS: ELENA MENDOZA, IMAGING SUPERVISOR. IS THAT
2 YOUR JOB TITLE, SIR?

3 A. I THOUGHT IT WAS, SIR.

4 Q. OKAY. WE'VE HEARD SOME EXPLANATION THAT THIS WAS WORDING
5 ON HER PART. DID MS. BEALE EVER TALK TO YOU ABOUT, BEFORE YOU
6 GOT THIS AUTO-RESPONSE, OH, BY THE WAY, ELENA MENDOZA IS NOW
7 GOING TO BE IMAGING SUPERVISOR?

8 A. NO, SIR.

9 Q. HOW ABOUT, SHE'S GOING TO BE IMAGING SUPERVISOR WHILE I'M
10 AWAY?

11 A. NO, SIR.

12 Q. WHY DID YOU UNDERSTAND THAT THIS E-MAIL REFERENCING HER AS
13 IMAGING SUPERVISOR MEANT THAT SHE HAD THOSE JOB DUTIES?

14 A. IT'S WRITTEN RIGHT THERE, SIR. SHEILA IS VERY CALCULATED.

11:04:51 15 THESE WERE MADE BEFORE HER ABSENCE OR HER TIME OFF, AND
16 TYPICALLY, MY NAME SHOULD HAVE BEEN RIGHT THERE OR WAS RIGHT
17 THERE.

18 Q. OKAY. WHEN YOU SAW THIS AUTO-RESPONSE FROM MS. BEALE, HOW
19 DID YOU REACT TO IT? WHAT WAS YOUR SENTIMENT?

20 A. I WAS SURPRISED.

21 Q. BECAUSE?

22 A. THAT'S MY JOB. I MEAN, THE TITLE WAS MY JOB. SO WHEN I
23 SEEN, I WAS SURPRISED. I WAS VERY UPSET TOO.

24 Q. OKAY. I WANT TO BACK UP IN TIME, SIR, BACK TO END OF
25 DECEMBER 2015, EXCUSE ME. WERE YOU EXPERIENCING RETALIATION BY

11:05:42

1 MS. -- BY DEPUTY DIRECTOR BEALE IN OR ABOUT DECEMBER 15 OR ON
2 OR ABOUT DECEMBER 15TH, 2016?

3 A. YES, SIR.

4 Q. WHAT TYPE OF RETALIATION DID YOU EXPERIENCE FROM MS. BEALE
5 ON OR ABOUT THAT DAY?

6 A. OH, MY JOB WAS VERY DIFFERENT AT THAT TIME, THE ATMOSPHERE.
7 AT THE TIME, SHE INSTRUCTED THE CREW NOT TO SPEAK TO ME ABOUT
8 SYSTEMS, ANY ISSUES.

9 MR. SCHAEFER: OBJECTION, YOUR HONOR. HEARSAY. LACK
10 OF FOUNDATION.

11 THE COURT: WELL, IT'S A STATEMENT TO THE PARTY.
12 IT'S HIS RECOLLECTION. AND IT'S NOT FROM A THIRD PARTY.
13 HE'S TESTIFYING AS TO THE INDIVIDUAL THAT ALLEGEDLY MADE
14 THIS STATEMENT TO HIM. IT'S HIS RECOLLECTION, HIS STATE
15 OF MIND. SO OVERRULED.

11:06:49

16 BY MR. VANDERPOOL:

17 Q. PROCEED, SIR. WHAT WAS SHE DOING?

18 A. SHE WOULD SPEAK TO ME, AND I'D BE IN THE SAME ROOM, AND
19 SHE'LL DIRECT ELENA FOR A TASK. FIRST SAY: I NEED RASEAN TO
20 HANDLE THESE PULLS AND MAKE SURE THE RETURNS ARE DONE BY THE
21 END OF THE DAY. AND I'M RIGHT HERE. IT WAS VERY AWKWARD.
22 MEETINGS, I WAS SYSTEM ADMINISTRATOR FOR VERSATILE. THAT'S THE
23 TRACKING FOR ALL THE BOXES AND THINGS THAT WE HAVE. WE HAVE
24 MEETINGS, AND I WASN'T A PART OF THOSE MEETINGS ANYMORE. MY
25 ACCESS TO SYSTEMS WERE LIMITED AS WELL AS MY KEYS FROM THE

11:07:46

1 SITES WERE TAKEN AWAY FROM ME AT THE TIME, SIR.

2 Q. WAS SHE DIRECTING YOUR STAFF, YOUR REPORTS, ON WHAT TO
3 DO?

4 A. YES --

5 MR. SCHAEFER: YOUR HONOR, SAME OBJECTION, UNLESS HE
6 ACTUALLY HEARD THE STATEMENTS MADE.

7 THE COURT: SUSTAINED.

8 BY MR. VANDERPOOL:

9 Q. AT ANY TIME DID YOU LEARN THAT YOUR STAFF WERE BEING
10 INSTRUCTED BY MS. BEALE WITHOUT YOUR KNOWLEDGE?

11 A. YES, SIR.

12 Q. WAS THAT IN OR ABOUT DECEMBER -- ON OR ABOUT DECEMBER 15,
13 2016?

14 A. YES, SIR.

11:08:17

15 Q. DID SHE BLAME YOU FOR ANYTHING?

16 A. YES, SIR.

17 Q. WHAT?

18 MR. SCHAEFER: OBJECTION. LACK OF FOUNDATION, YOUR
19 HONOR.

20 THE COURT: WELL, HE HAS A POINT. I THINK THE WAY TO
21 DEAL WITH THIS IS IF HE CAN STATE WHAT HE DID -- HE CAN
22 STATE WHAT HE DID BASED ON WHAT HE BELIEVES TO BE
23 STATEMENTS MADE TO HIM OR ACTIONS TAKEN AGAINST HIM, AND
24 THEN HE CAN STATE -- AFTER HE STATES WHAT HAPPENED TO HIM,
25 THEN HE CAN STATE HIS RECOLLECTION OR STATE OF MIND OF WHY

11:08:53

1 HE BELIEVED THIS WAY.

2 BY MR. VANDERPOOL:

3 Q. LET ME ASK IT THIS WAY -- THANK YOU, YOUR HONOR. DID YOU
4 COMMUNICATE TO KELLY CRUZ THE TYPE OF RETALIATION YOU WERE
5 EXPERIENCING ON OR ABOUT DECEMBER 15, 2015?

6 A. YES, SIR.

7 Q. HOW DID YOU COMMUNICATE THE FORMS OF RETALIATION YOU WERE
8 EXPERIENCING TO MS. CRUZ ON THAT DATE?

9 A. VIA E-MAIL, FOLLOW-UP CALL.

10 Q. WHAT WAS YOUR PURPOSE IN COMMUNICATING THAT CONDUCT TO YOUR
11 UNION REPRESENTATIVE, MS. CRUZ?

12 A. I WAS STUCK. KELLY WAS THE ONLY PERSON THAT COULD REALLY
13 HELP ME. SHE'S MY UNION REPRESENTATIVE, AND I WAS VERY BLOWN
14 BACK ON WHAT WAS GOING ON. SO I NEEDED SOME KIND OF GUIDANCE.

11:09:43

15 I NEEDED HELP.

16 Q. IN YOUR E-MAIL, DO YOU RECALL, WERE YOU COMMUNICATING TO
17 MS. CRUZ HOW YOU WERE FEELING ABOUT YOUR WORK STATUS AT THAT
18 POINT?

19 A. I BELIEVE SO.

20 Q. HOW WERE YOU FEELING AT THAT POINT?

21 A. I FELT BAD. I WAS IN AN AWKWARD POSITION. I WAS COMING TO
22 WORK EVERY DAY, DOING MY JOB TO THE BEST OF MY ABILITY, AND
23 EVERY DAY SOMETHING OUT OF THE PICTURE HAPPENS. FIRST, LOADING
24 KIDS CORNER. IT'S A PORTION OF OUR WEB PAGE OF THE CITY
25 CLERK'S OFFICE THAT I ALSO OVERSAW -- I DID THE PUBLISHING.

11:10:36

1 SHE WANTED IT ON THE LEFT SIDE, AND I DID THE RIGHT SIDE.
2 CHANGE OF DIRECTIONS ON THE FLY. CERTAIN DIRECTION WASN'T
3 SPELLED OUT SO IT WAS LIKE A GENERAL DIRECTION AND CRITICISM OF
4 WHAT I'VE DONE. EVEN THOUGH IT WASN'T WRONG, IT WAS CRITICISM
5 OF HOW I WAS DOING MY JOB. IT WAS A VERY AWKWARD SITUATION.
6 SO WHAT I DID, INSTEAD OF INTERNALIZING IT, I HAD TO VENT IT.
7 I HAD TO REPORT IT. SO I CALLED KELLY. I E-MAILED KELLY,
8 SAID, WHAT'S GOING ON? WHAT DO I DO? WHAT SHOULD I DO? HOW
9 CAN I APPROACH THIS AND STILL HAVE, YOU KNOW, SOME INTEGRITY?

10 Q. INTO THE SPRING OF 2016, WAS MS. BEALE TELLING YOU ABOUT
11 HOW TO COMMUNICATE WITH HER?

12 A. YES, SIR.

13 Q. WHAT WAS SHE SAYING IN THIS REGARD OR DIRECTING?

14 A. VERBALLY AND ON PAPER SHE DIRECTED ME NOT TO CALL HER

11:11:38

15 SHEILA OR BOSS. IT'S MRS. BEALE. AND IF -- THAT'S ONLY
16 EMERGENCY SITUATION. SHE DID NOT WANT TO SPEAK TO ME. PUT IT
17 IN AN E-MAIL, THAT WAS THE RESPONSE. AND I'D SAY, YES, MA'AM,
18 AND I'D GO ABOUT MY TASK. SO SHE WASN'T -- I COULDN'T
19 COMMUNICATE WITH HER. SHE DIDN'T WANT TO TALK TO ME, AND I
20 TRIED NUMEROUS OCCASIONS AND A LOT OF THIS WAS HAPPENED IN
21 FRONT OF OUR TEAM MEMBERS. SO IT MAKES IT VERY AWKWARD FOR
22 EVERYBODY KNOWING THAT I'VE BEEN THERE FOR SO LONG, I'VE BEEN
23 PEOPLE'S SUPERVISOR, I TRAINED EVERYBODY, ON HOW I WAS BEING
24 TREATED. SO I FELT LIKE AN ELEPHANT IN THE ROOM EVERY TIME I
25 STEP IN THERE. YOU HAVE A FEELING THAT YOU'RE NOT WANTED, AND

11:12:28

1 I HAD FELT THAT I WASN'T WANTED AT THE TIME. AND IF YOU EVER
2 FELT THAT WAY, IT'S NOT GOOD, ESPECIALLY WHEN YOU GOT YOUR
3 HEART AND SOUL IN WHAT YOU'RE DOING.

4 Q. DID YOU HAVE A CONVERSATION WITH MS. MENDOZA ABOUT
5 REPORTING TO HER?

6 A. YES.

7 Q. HOW DID THAT CONVERSATION GO?

8 A. AWKWARD.

9 Q. WHY?

10 A. IT WAS CO-WORKERS EVER SINCE HER ARRIVAL IN THE RECORDS
11 MANAGEMENT DIVISION. WE COLLABORATED ON THINGS. WE WERE
12 CO-WORKERS, AND THEN ALL OF A SUDDEN ON THAT MONDAY SHE WAS MY
13 SUPERVISOR. AND SHE EXPRESSED TO ME THAT SHE REALLY DIDN'T
14 WANT TO GET IN THE MIDDLE OF THIS, BETWEEN ME AND SHEILA
15 BEALE.

11:13:10

16 Q. LET'S TALK ABOUT, AND I'M SORRY FOR SKIPPING AROUND ON THE
17 DATES, BUT I WANT TO TALK ABOUT NOW ON MARCH 2016, RIGHT AROUND
18 THE TIME YOU GOT MR. BARCLAY'S LETTERS OF HIS FINDINGS. YOU
19 WITH ME?

20 A. YES, SIR.

21 Q. AS OF THAT DATE, END OF MARCH, WERE YOU SUPERVISING ANY
22 CLERK'S OFFICE EMPLOYEES?

23 A. NO.

24 Q. AS OF END OF MARCH 2016, WHAT CLERK'S OFFICE'S SYSTEMS DID
25 YOU HAVE ACCESS TO?

11:13:38

1 A. LIMITED TO NONE, SIR.

2 Q. ANYWHERE NEAR THE SYSTEMS ACCESS YOU HAD AS OF AUGUST 30,
3 2010?

4 A. NO, SIR.

5 Q. AS OF MARCH 2016, WHAT CLERK'S OFFICE FACILITIES DID YOU
6 HAVE ACCESS TO, KEYS TO?

7 A. JUST A KEY TO MY OFFICE.

8 Q. WERE YOU WORKING IN THE SAME OFFICE AS OF END OF MARCH 2016
9 OR WORK STATION AS YOU WERE AUGUST 31, 2015?

10 A. I PUT MY STUFF IN MY OFFICE BUT MY MAINLY TASKS WAS IN THE
11 BASEMENT OF THE CITY ADMINISTRATION BUILDING IN THE ARCHIVE
12 CENTER.

13 Q. THAT'S WHERE YOUR WORK DUTIES WERE ASSIGNED BY MS. BEALE?

14 A. YEAH, THE INVENTORYING OF BOOKLETS IN THE CODE ROOM.

11:14:19

15 Q. AS OF END OF MARCH 2016, WERE YOU COMMUNICATING AT ALL WITH
16 MS. BEALE IN PERSON?

17 A. NO, SIR.

18 Q. DID YOU SAY "GOOD MORNING" TO HER?

19 A. YES, SIR, WHEN I SEEN HER.

20 Q. DID SHE RESPOND?

21 A. NO, SIR.

22 Q. YOU MENTIONED ATTENDING STAFF MEETINGS WITH DEPUTY DIRECTOR
23 BEALE. WAS THAT MORE THAN ONE OCCASION WHEN YOU AND SHE WERE
24 IN A MEETING AND SHE WOULD USE YOUR NAME BUT BE TALKING TO
25 SOMEBODY ELSE?

11:14:42

1 A. IT WAS COMMON. YES, SIR, IT WAS COMMON.

2 Q. WERE THERE MEETINGS, STAFF MEETINGS IN THE DEPARTMENT THAT
3 YOU FOUND OUT AFTER THEY OCCURRED?

4 A. YES, SIR.

5 MR. SCHAEFER: I GOT TO OBJECT. LEADING QUESTION.

6 THE COURT: JUST A MINUTE.

7 MR. VANDERPOOL: I CAN REPHRASE, YOUR HONOR.

8 THE COURT: YES, PLEASE.

9 BY MR. VANDERPOOL:

10 Q. WERE YOU EXCLUDED FROM STAFF MEETINGS, SIR?

11 A. YES, SIR.

12 Q. HOW SO?

13 A. WASN'T INVITED. THEY HAPPENED, AND I WAS TO DO WHAT I WAS
14 SUPPOSED TO DO, THE TASK AT HAND. MY ATTENDANCE WASN'T
15 NECESSARY ANYMORE.

11:15:32

16 Q. LET'S GO BACK TO EXHIBIT 5, MR. BARCLAY'S LETTER. DID MR.
17 BARCLAY OR ANYONE FROM THE EEIO OFFICE CONTACT YOU, BESIDES
18 SENDING THIS LETTER?

19 A. NO, SIR.

20 Q. DID YOU GET A CALL OR A MESSAGE FROM SOMEBODY IN HIS
21 OFFICE?

22 A. NO, SIR.

23 Q. DID YOU TRY TO CONTACT HIM?

24 A. NO, SIR.

25 Q. WHY NOT?

11:16:07 1 A. HOW I READ IT, BASICALLY, THEY INVESTIGATED AND FOUND THAT
2 THINGS I WAS SAYING WAS TRUE.

3 Q. WELL, IN OR AFTER LATE MARCH 2016, AFTER THIS LETTER CAME
4 TO YOU, DID THE CITY CLERK, MS. MALAND, SPEAK TO YOU ABOUT WHAT
5 WOULD HAPPEN?

6 A. NO, SIR.

7 Q. DID MS. MALAND OR ANYBODY IN THE CLERK'S OFFICE OR HUMAN
8 RESOURCES, MR. SCHWABE, CALL YOU TO SCHEDULE A MEETING TO TALK
9 ABOUT MR. BARCLAY'S FINDINGS AND WHAT THEY WOULD MEAN?

10 A. NO, SIR.

11 Q. WHAT ABOUT MS. JUDY VON KALINOWSKI?

12 A. NO ONE TALKED TO ME ABOUT THIS.

13 Q. DID MS. MALAND OR ANYONE IN THE CLERK'S OFFICE OR HUMAN
14 RESOURCES TELL YOU WHAT WOULD BE DONE TO PROTECT YOU FROM
15 RETALIATION BY DEPUTY DIRECTOR BEALE IN LIGHT OF THE
16 FINDINGS?

11:17:03

17 A. NO, SIR.

18 Q. THERE'S BEEN REFERENCE TO A PERFORMANCE EVALUATION YOU
19 RECEIVED FROM MRS. BEALE IN APRIL 2016. LET ME SHOW YOU
20 EXHIBIT 7 WHICH HAS BEEN STIPULATED AS ADMISSIBLE. ARE WE
21 PUBLISHING THAT? OKAY. THANK YOU. DO YOU RECOGNIZE YOUR
22 SIGNATURE THERE, SIR?

23 A. YES, SIR.

24 (EXHIBIT 7 ADMITTED.)

25 Q. ON THIS FIRST PAGE OF THIS EXHIBIT, DO YOU RECOGNIZE THE

11:17:39

1 OTHER SIGNATURES?

2 A. YES, SIR.

3 Q. IS THAT MS. MALAND'S SIGNATURE?

4 A. ON THE BOTTOM, AS APPOINTED AUTHORITY.

5 Q. OKAY. SO WE'RE LOOKING AT MS. MALAND'S SIGNATURE. JUST

6 ABOVE, WAS THERE A SUPERVISOR-EMPLOYEE CONFERENCE ON APRIL

7 13TH?

8 A. YES, SIR.

9 Q. AND THAT WAS WITH WHOM?

10 A. MYSELF AND SHEILA BEALE.

11 Q. LET'S LOOK AT MS. MALAND'S SIGNATURE JUST ABOVE.

12 REVIEWER-SUPERVISOR CONFERENCE TOOK PLACE ON APRIL 7TH. I TAKE

13 IT YOU WERE NOT IN THAT CONFERENCE?

14 A. NO, SIR.

11:18:30

15 Q. UP AT THE TOP IT TALKS ABOUT THE REPORTING PERIOD, APRIL OF

16 2015 TO APRIL OF 2016, RIGHT?

17 A. YES, SIR.

18 Q. SO YOU GOT THIS REVIEW RIGHT AT THE END OF THE REPORTING

19 PERIOD?

20 A. YES, SIR.

21 Q. AND YOU RECEIVED IT ABOUT A WEEK, NINE OR TEN DAYS, BEFORE

22 YOU LEFT THE DEPARTMENT, RIGHT?

23 A. CORRECT, SIR.

24 Q. THE TRANSFER TO THE PUBLIC UTILITIES DEPARTMENT WAS ALREADY

25 IN THE WORKS AS OF THIS DATE?

11:18:54

1 A. I DON'T KNOW.

2 Q. ALL RIGHT. CLOSE IT. WHAT DID YOU KNOW ABOUT THE STATUS
3 OF A TRANSFER AS OF APRIL 13TH, 2016?

4 A. I WAS WAITING FOR SOME TYPE OF CORRESPONDENCE, SOMETHING TO
5 TELL ME WHAT'S MY NEXT STEP. IT WAS A REAL HARD TIME PERIOD
6 RIGHT THERE.

7 Q. OKAY. LET'S GO TO THE NEXT PAGE PLEASE OF THIS EXHIBIT.
8 EXHIBIT 7, PAGE TWO, BLOW UP THAT FIRST PARAGRAPH. NOW MR.
9 JOHNSON, I WANT TO GO THROUGH THIS PARAGRAPH. RASEAN
10 SUPERVISED, PAST TENSE; WHY IS THAT IN THE PAST TENSE?

11 A. BECAUSE I WASN'T SUPERVISING ANYONE AS OF THE WRITING AND
12 SIGNING OF THAT DOCUMENT.

13 Q. OKAY. IS ANYTHING DESCRIBED IN THIS PARAGRAPH, SIR, DID
14 YOU HAVE ANY OF THOSE RESPONSIBILITIES AS OF THE DATE OF THIS
15 REVIEW?

11:19:57

16 A. NO, SIR.

17 Q. ARE THESE RESPONSIBILITIES YOU HAD PRIOR TO YOUR COMPLAINT
18 IN SEPTEMBER 2015?

19 A. FOR THE MOST PART, YES.

20 Q. FOR THE MOST PART. WHAT WAS ANYTHING THAT WAS A JOB DUTY
21 THAT EXISTED AT THE TIME OF THIS REVIEW IN APRIL 2016?

22 A. WELL, I HAD THREE SECTIONS, ONGOING PROJECTS. SO THINGS
23 CHANGED. BUT WHEN I SIGNED THIS, MOST OF MY DUTIES WERE
24 INVENTORY IN THE CODE ROOM IN THE BASEMENT. SO I DIDN'T HAVE
25 THE THREE SECTIONS. I WASN'T DOING MUCH BUT BEING IN A CODE

11:20:48

1 ROOM MARKING UP BOXES. VERY DIFFERENT. TAKE AWAY ALL THAT
2 FROM ME.

3 Q. ARE THE REFERENCES TO STAFF IN THIS PARAGRAPH YOUR
4 REPORTS?

5 A. YES.

6 Q. PEOPLE YOU SUPERVISED?

7 A. AT A TIME.

8 Q. MEANING PRIOR TO SEPTEMBER 9TH, 2015?

9 A. YES.

10 Q. LET'S GO TO THE NEXT PARAGRAPH. LET'S GO TO THE NEXT TWO
11 PARAGRAPHS, EXHIBIT 7, PAGE TWO, MIDDLE OF THE PAGE. THE JOB
12 DUTIES REFERENCED HERE IS TO SUPERVISE TWO IMAGING CLERKS. DID
13 YOU HAVE THOSE JOB DUTIES AS OF APRIL 13TH, 2016?

14 A. NO, SIR.

11:21:35

15 Q. BUT DID YOU HAVE THOSE RESPONSIBILITIES ON SEPTEMBER 1 OF
16 2015?

17 A. YES, SIR.

18 Q. THE NEXT PARAGRAPH TALKS ABOUT TRAINING STAFF. WERE YOU
19 TRAINING STAFF IN ANY OPERATIONS OR SYSTEMS AS OF APRIL 2016?

20 A. NO, SIR.

21 Q. CLOSE THAT. NEXT PARAGRAPH, ONE UP FROM THE BOTTOM
22 PARAGRAPH. THIS TALKS ABOUT AN I9610 ARCHIVE WRITER. IS THAT
23 SOME KIND OF HARDWARE SOFTWARE OR BOTH?

24 A. IT'S HARDWARE MADE BY EASTMAN KODAK.

25 Q. DID YOU HAVE ANY OF THESE RESPONSIBILITIES AS OF APRIL

11:22:32

1 2016?

2 A. NO, SIR.

3 Q. LAST PARAGRAPH SAYS, AFTER HE CREATES THE MICROFILM, HE
4 SENDS IT OFF TO THE VENDOR FOR PROCESSING. WERE YOU DOING THAT
5 JOB AS OF APRIL 2016?

6 A. NO, SIR.

7 Q. CLOSE THAT. BOTTOM PARAGRAPH. HERE AGAIN IT BEGINS IN THE
8 PAST SENTENCE: RASEAN WORKED VERY CLOSELY WITH. WERE YOU
9 WORKING CLOSELY OR AT ALL WITH ARCHIVIST JERRY HANDFIELD IN
10 APRIL 2016?

11 A. YES.

12 Q. SO THE SUBJECT OF THIS PARAGRAPH, WERE YOU STILL DOING
13 THOSE IN APRIL?

14 A. A SUBSET, JERRY HANDFIELD, THE ARCHIVIST, THAT PROMPTED
15 WHAT I WAS DOING IN THE CODE ROOM, INVENTORYING THE RECORDS.

11:23:22

16 Q. WHEN DID YOU PUT TOGETHER THE MILITARY EXHIBIT?

17 A. THAT WAS IN THE HOLIDAY SEASON. IT WAS A COOL DISPLAY. I
18 BELIEVE LATE NOVEMBER OF 2015.

19 Q. WOULD YOU AGREE, SIR, THIS IS A POSITIVE EVALUATION?

20 A. AT A GLANCE, SIR.

21 Q. I'M SORRY?

22 A. AT A GLANCE. IF YOU REALLY WAS WORKING AND SEEING ON MY
23 END, IT'S OKAY. BUT IT HAS SOME THINGS IN THERE THAT I FIND
24 SURPRISING.

25 Q. WELL, IS IT YOUR POSITION -- IS IT YOUR ARGUMENT, SIR, THAT

11:24:55 1 DEPUTY DIRECTOR BEALE WAS RETALIATING AGAINST YOU BY GIVING YOU
2 THIS PERFORMANCE REVIEW?

3 A. YES, SIR.

4 Q. HOW SO, SIR?

5 A. PORTIONS OF IT IS TIME BAR, BUT MOST OF WHAT IT IS IS LIKE
6 SLAPPING YOU IN THE FACE AND SAYING YOU LOOK CUTE.

7 Q. YOUR TRANSFER TO THE PUBLIC UTILITIES DEPARTMENT; DO YOU
8 KNOW WHAT A TRANSFER LIST IS, SIR?

9 A. YES, SIR.

10 Q. WHAT'S A TRANSFER LIST?

11 A. A TRANSFER LIST IS JUST A -- WITHIN THE ORGANIZATION OF THE
12 CITY OF SAN DIEGO IT'S A PERSONNEL REQUEST ACTION FORM. THOSE
13 FORMS UTILIZE MAJORITY OF THE CITY EMPLOYEES IF THEY SEEK ANY
14 PROMOTIONAL OPPORTUNITIES WITHIN THE DEPARTMENT OR OUTSIDE THE
11:25:43 15 DEPARTMENT. IT'S A REQUIREMENT TO PUT YOUR NAME ON THE

16 AVAILABLE LIST FOR AN INVITATION OF INTERVIEW, SIR.

17 Q. AND ACTUALLY YOU PUT YOUR NAME ON A TRANSFER LIST WHILE IN
18 THE CITY CLERK'S OFFICE WELL BEFORE 2015?

19 A. YES, SIR.

20 MR. SCHAEFER: OBJECTION. LEADING QUESTION.

21 THE COURT: I'M SORRY. I HEARD SOMETHING, BUT I
22 DIDN'T HEAR WHAT WAS SAID.

23 MR. SCHAEFER: OBJECTION, YOUR HONOR. LEADING
24 QUESTION BY PLAINTIFF'S COUNSEL.

25 THE COURT: SUSTAINED.

11:26:19

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. SCHAEFER: MOVE TO STRIKE WITNESS'S ANSWER.

THE COURT: IT WILL BE STRUCK. REPHRASE.

MR. VANDERPOOL: I'M SORRY, YOUR HONOR. I THOUGHT I
WAS WAITING ON YOU.

BY MR. VANDERPOOL:

Q. WERE YOU ON A TRANSFER LIST IN 2010?

A. YES, SIR.

Q. WERE YOU ON A TRANSFER LIST IN 2013?

A. YES, SIR.

Q. HOW DO YOU GET YOUR NAME ON A TRANSFER LIST?

A. YOU HAVE TO FILL OUT A PERSONNEL ACTION REQUEST FORM. THAT
IS PRETTY MUCH YOUR TRANSFER LIST FORM.

Q. IS THERE A SUNSET PERIOD FOR HOW LONG YOU'RE ON SUCH A
LIST?

A. I THINK THERE'S AN ANNUAL PERIOD. AFTER IT EXPIRES, YOU
HAVE TO ADD YOUR NAME. IF YOU DON'T HAVE YOUR NAME IN THERE
AND A POSITION IS AVAILABLE, YOU'RE NOT SUBJECT FOR AN
INTERVIEW BECAUSE YOU'RE NOT ON THAT TRANSFER LIST WITHIN A
DEPARTMENT, WITHOUT DEPARTMENT.

Q. WAS YOUR TRANSFER TO THE PUBLIC UTILITIES DEPARTMENT IN
APRIL 2016 THE RESULT OF YOUR BEING ON A TRANSFER LIST?

A. NO, SIR.

Q. BETWEEN SEPTEMBER 2015 AND MARCH 2016, SIR, DID YOU WANT TO
LEAVE THE CITY CLERK'S OFFICE?

A. NO.

11:27:33 1 Q. THE CITY HAS SAID THAT WAS YOUR CHOICE, SIR. WAS IT YOUR
2 CHOICE TO LEAVE THE CITY CLERK'S OFFICE?

3 A. NO. IT WAS THE CITY'S CHOICE.

4 Q. WHY, SIR?

5 A. I FEEL THAT IT IS EASIER TO MOVE AN ADMIN AIDE THAN DEPUTY
6 DIRECTOR. THEY WAS TRYING TO TAKE CARE OF SOMETHING THAT WAS
7 BAD BY REMOVING ME FROM MY DEPARTMENT, GIVING ME ONLY TWO
8 OPTIONS, ENDURE WHAT I WAS GETTING DONE TO OR TRY SOMETHING
9 ELSE, YOU KNOW. NO APOLOGIES.

10 THE COURT: MR. JOHNSON, PLEASE DON'T VOLUNTEER OTHER
11 THAN YOUR RESPONSE TO THE QUESTION.

12 THE WITNESS: YES, SIR.

13 THE COURT: I DON'T WANT TO GET A DIALOGUE GOING.

14 THE WITNESS: YES, SIR.

11:28:27 15 BY MR. VANDERPOOL:

16 Q. DID KELLY CRUZ ADVISE YOU OR TELL YOU AT SOME POINT IN TIME
17 THAT THAT TRANSFER, THAT A TRANSFER OUT OF THE DEPARTMENT WAS
18 AN OPTION?

19 A. IT'S MY ONLY OPTION.

20 Q. OKAY. WHEN YOU FIRST HEARD THAT FROM MS. CRUZ, WHAT WAS
21 YOUR REACTION? WHAT DID YOU SAY?

22 A. I SAID, WHY DON'T THEY MOVE HER; WHY I HAVE TO LEAVE?

23 Q. DID YOU GET A RESPONSE FROM MS. CRUZ?

24 A. SHE COULDN'T ACTUALLY GIVE ME THE INFORMATION I NEEDED.

25 Q. DID MS. CRUZ TELL YOU THAT SHE HAD REQUESTED THAT, THAT MS.

11:29:02

1 BEALE BE REMOVED?

2 MR. SCHAEFER: OBJECTION, YOUR HONOR. HEARSAY.

3 THE COURT: SUSTAINED.

4 MR. VANDERPOOL: PRESENT SENSE IMPRESSION.

5 THE COURT: NO. REPHRASE.

6 BY MR. VANDERPOOL:

7 Q. DID YOU ASK ABOUT DETAILS OF THE POSITION OR POSITIONS YOU
8 COULD BE TRANSFERRED TO?

9 A. I ASK FOR INFORMATION, YES, SIR.

10 Q. AND AS OF THE TIME YOU WERE PRESENTED WITH THE TRANSFER
11 OPTION, WHAT WAS YOUR JOB ENVIRONMENT, YOUR WORK ENVIRONMENT,
12 ON A DAILY BASIS LIKE IN THE CLERK'S OFFICE?

13 A. BEFORE I LEFT, IT WAS VERY HARD. I WAS -- I FELT AWKWARD.

11:30:20

14 Q. DID THE CITY CLERK OR HUMAN RESOURCES, TO YOUR KNOWLEDGE,
15 PRESENT YOU WITH ANY OPTION BESIDES STAYING UNDER MS. BEALE OR
16 TRANSFERRING?

17 A. NO, SIR.

18 Q. HOW DID YOU MAKE THAT DECISION ABOUT WHICH OF THOSE TWO
19 CHOICES TO TAKE?

20 A. I THOUGHT ABOUT IT HARD. I TALKED TO MY, IT WAS MY FIANCEE,
21 ABOUT WHAT WAS GOING ON AND WHAT OPTIONS I HAVE, AND I
22 ULTIMATELY CAME TO THE DECISION.

23 Q. DID YOU SEEK ANYBODY ELSE'S INPUT?

24 A. I TALKED TO KATHY JOY.

25 Q. YOUR MENTOR?

11:31:08

1 A. YES.

2 Q. DID KELLY CRUZ GIVE YOU ANY RECOMMENDATIONS ABOUT WHAT TO
3 DO?

4 MR. SCHAEFER: OBJECTION, YOUR HONOR. HEARSAY.

5 THE COURT: OVERRULED. IF HE, IN FACT, WAS TOLD
6 SOMETHING, HE CAN SAY WHAT IT WAS, IF ANY. OVERRULED.

7 THE WITNESS: SHE EXPLAINED TO ME IT WAS THE ONLY
8 OPTION; YOU GOT PUD OR YOU CAN STAY WHERE YOU ARE.

9 BY MR. VANDERPOOL:

10 Q. WAS THERE ANY GOOD NEWS IN YOUR MIND ABOUT GOING TO PUD?

11 A. I GOT OUT FROM UNDER SHEILA BEALE.

12 Q. DID YOU KNOW WHAT JOB YOU WOULD BE HAVING?

13 A. ABSOLUTELY NOT, SIR.

14 Q. DID YOU KNOW WHERE YOU WOULD BE REPORTING TO WORK?

11:31:50 15 A. NO.

16 Q. DID YOU KNOW IF YOU WOULD BE SUPERVISING ANY EMPLOYEES?

17 A. NO, SIR.

18 Q. DO YOU KNOW WHAT WORK LOCATION OR OFFICE FACILITY YOU WOULD
19 BE GIVEN?

20 A. GENERALLY.

21 Q. GENERALLY. WHERE?

22 A. OPERATION YARD.

23 Q. NOW BEFORE YOU LEFT OUT OF THE CLERK'S OFFICE, DID YOU GET
24 AN E-MAIL FROM MRS. MALAND?

25 A. YES.

11:32:16 1 Q. LET ME SHOW YOU EXHIBIT 52 WHICH I BELIEVE IS STIPULATED.
2 IS THIS AN E-MAIL YOU RECEIVED FROM MS. MALAND ON OR ABOUT
3 APRIL 22, 2016?

4 A. YES, SIR.

5 (EXHIBIT 52 ADMITTED.)

6 Q. IS THAT THE LAST DAY IN THE CLERK'S OFFICE FOR YOU?

7 A. IT WAS MY LAST DAY, SIR.

8 Q. ON MONDAY, THE 25TH, YOU REPORTED TO WORK AT PUD?

9 A. YES, SIR.

10 Q. PRIOR TO GETTING THIS E-MAIL, HAD MS. MALAND E-MAILED YOU,
11 TEXTED YOU, CALLED YOU, HAD A MEETING WITH YOU, CAME BY TO SAY
12 HELLO TO YOU?

13 A. NO, SIR.

14 Q. WHAT WAS YOUR REACTION TO RECEIVING THIS E-MAIL FROM THE
11:33:08 15 CITY CLERK?

16 A. IT MADE ME SICK.

17 Q. WHAT?

18 A. IT MADE ME SICK.

19 Q. WHY?

20 A. THE SUBJECT LINE SAID, THANK YOU. WHY? WHY AM I BEING
21 THANKED AT THAT SITUATION?

22 Q. SHE ASKED A QUESTION IN THE SECOND PARAGRAPH. DID YOU
23 RESPOND TO IT?

24 A. YES, SIR.

25 Q. WHAT DID YOU SAY?

11:33:38 1 A. I POLITELY INFORMED HER SHE CAN RESPOND TO THE STAFF AS SHE
2 SEES FIT. I WAS VERY PROFESSIONAL.

3 Q. YOUR TRANSFER TO PUD YOU SAID WAS ON APRIL 25TH. THERE'S
4 PAPERWORK TO CONFIRM THAT. I'D LIKE TO SHOW YOU EXHIBIT 8
5 WHICH HAS BEEN STIPULATED. IT'S EMPLOYMENT APPOINTMENT
6 NOTIFICATION. LET ME SEE IF YOU CAN HIGHLIGHT JUST THE TOP
7 SECTION. IT SAYS AN APPOINTMENT DATE, APRIL 25TH, 2016. DOES
8 THAT CONFIRM YOUR DATE OF APPOINTMENT, SIR, AT THE PUD?

9 A. YES, SIR.

10 (EXHIBIT 8 ADMITTED.)

11 Q. CLOSE THAT. AND DO YOU RECOGNIZE THE SIGNATURE THAT'S ON
12 THERE DATED JUNE 2ND, 2016?

13 A. YES, SIR.

14 Q. WHO IS THAT?

11:34:37 15 A. DEPUTY DIRECTOR OF -- DEPUTY DIRECTOR OF PUD. IT'S WATER
16 MAINTENANCE CONSTRUCTION, MR. HIREE, ISAM HIREE(PHONETIC).

17 Q. LET'S TALK ABOUT THE PUBLIC UTILITIES DEPARTMENT. WHEN YOU
18 REPORTED TO WORK, WHERE WAS IT, WHAT LOCATION OF SAN DIEGO?

19 A. EAST COUNTY, CHOLLAS OPERATIONAL YARD. IT SITS ON THE
20 BORDER BETWEEN OUR CITY AND THE COUNTY.

21 Q. DESCRIBE THE FACILITY THEY REPORTED TO.

22 A. CHOLLAS OPERATIONAL YARD IS WHERE WE HAVE MULTIPLE
23 DEPARTMENTS WITH THE OPERATIONS. SO WE HAVE WASTE WATER, WATER
24 DEPARTMENT; WE HAVE STREETS; YOU HAVE DIFFERENT AREAS IN THEIR
25 OPERATIONS. WITHIN MY PARTICULAR DIVISION, THERE'S ROUGHLY 250

11:35:42 1 CREW MEMBERS, MOSTLY FIELD EMPLOYEES. THEY GET UP EARLY IN THE
2 MORNING, THEY GO TO THE OPERATIONAL YARD TO PICK UP THEIR
3 TRUCK, THEY GET THEIR ASSIGNMENT, AND THEY GO OFF. IN MY
4 PARTICULAR DUTIES, WE'RE IN THE OFFICE SPACE.

5 Q. WHO WAS YOUR INITIAL SUPERVISOR?

6 A. HER NAME IS YVONNE FAIAI.

7 Q. WHAT WAS YOUR INITIAL ASSIGNMENT?

8 A. MY INITIAL ASSIGNMENT WAS WORKING WITH RETIRED RESIDENTIAL
9 WATER METERS IN THE ASPECT OF COLLECTING THE INFORMATION AND
10 CLOSING THEM OUT OR RETIRING THE METERS.

11 Q. ARE THEY BEING TAKEN OUT OF SERVICE?

12 A. YES, SIR.

13 Q. IS THERE A TITLE OR ACRONYM OF THE PROJECT?

14 A. I DON'T HAVE A TITLE BUT THE PROJECT HAS ONE. IT'S AMI
11:36:37 15 PROJECT.

16 Q. DO YOU KNOW WHAT THAT STANDS FOR?

17 A. AUTOMATED METER INFRASTRUCTURE.

18 Q. BY THE WAY, SIR, ABOUT A YEAR AGO OR SO THERE WAS NEWS
19 COVERAGE ABOUT WATER METER READER ISSUES. DO YOU HAVE ANY
20 INVOLVEMENT IN THAT OR PROBLEMS WITH THAT?

21 A. YEAH, I WORK IN THAT SECTION.

22 Q. WHAT DID YOU DO WITH RESPECT TO THAT ISSUE?

23 MR. SCHAEFER: YOUR HONOR, I'M GOING TO OBJECT TO
24 RELEVANCY REGARDING THE NEWS REPORT AND WHAT HE DID
25 REGARDING WHAT WAS IN SOME NEWS REPORT.

11:37:09

1 THE COURT: SUSTAINED.

2 BY MR. VANDERPOOL:

3 Q. DID YOU HAVE ANY DISCIPLINE OR ANYTHING RELATED TO YOUR JOB
4 RELATING TO WATER METER ISSUES?

5 A. DISCIPLINE, SIR?

6 Q. YEAH. DID YOU DO ANYTHING WRONG?

7 A. NO.

8 Q. DESCRIBE YOUR WORK LOCATION THE FIRST COUPLE OF MONTHS OR
9 MORE THAT YOU WERE AT PUD?

10 A. MY FIRST OFFICE SPACE IS NO LONGER PHYSICALLY THERE. IT
11 HAD BEEN DEMOLISHED. IT WAS A CONVERTED CLOSET NEXT TO THE
12 TEST BENCHES FOR RESIDENTIAL METERS, CONVERTED CLOSET ADJACENT
13 TO THE MEN'S RESTROOM.

14 Q. OKAY. AT SOME POINT IN TIME IN THE COURSE OF THIS CASE,
11:37:54 15 DID YOU GO OUT THERE WITH MR. CADIEUX AND CITY REPRESENTATIVES
16 TO PHOTOGRAPH YOUR WORK SPACE?

17 A. YES, SIR.

18 Q. DO YOU REMEMBER THE DATE OF THAT, SIR?

19 A. IT WAS BEFORE NEW YEAR'S, 28TH OF DECEMBER.

20 Q. WHAT YEAR, SIR?

21 A. 2017.

22 Q. OKAY. AND WHO ACCOMPANIED YOU OUT THERE BESIDES MR.
23 CADIEUX?

24 A. IT WAS CITY INVESTIGATOR AND ANOTHER CITY EMPLOYEE.

25 Q. WAS THAT A SCHEDULED VISIT?

11:38:27

1 A. YES, SIR.

2 Q. OKAY. I WANT TO SHOW YOU FIRST, NOT PUBLISH, A PHOTOGRAPH,
3 THIS IS TO THE WITNESS ONLY, EXHIBIT 26, PAGE TWO. DO YOU
4 RECOGNIZE THIS PHOTO, SIR?

5 A. YES.

6 Q. WAS IT TAKEN ON THAT DATE, DECEMBER 28TH OF 2017?

7 A. IN OR AROUND THERE, YEAH.

8 Q. IS THAT YOUR NAME ON THE DESK?

9 A. THAT'S MY PLACARD, SIR.

10 Q. IS THIS YOUR WORK LOCATION?

11 A. AT THAT TIME, YES, SIR.

12 Q. OFFER TO PUBLISH THIS PHOTO, YOUR HONOR.

13 THE COURT: ANY OBJECTION?

14 MR. SCHAEFER: NOT TO THAT PARTICULAR PAGE, NO, YOUR
15 HONOR.

11:39:09

16 THE COURT: ALL RIGHT. IT'LL BE IN.

17 (EXHIBIT 26 ADMITTED.)

18 BY MR. VANDERPOOL:

19 Q. NOW, SIR, IS THIS PHOTOGRAPH TAKEN WITH THE PHOTOGRAPHER'S
20 BACK AGAINST THE WALL OPPOSITE YOUR CHAIR?

21 A. THE PHOTOGRAPHER'S BACK IS INTO A WORK AREA OF MY
22 CO-WORKER.

23 Q. OKAY. NOW THE GLASS DOOR THERE TO THE RIGHT IN THIS PHOTO,
24 WHAT'S RIGHT OUTSIDE THAT DOOR THAT LOOKS LIKE SOME RACKS OR
25 SOMETHING?

11:39:37

1 A. THE GREEN RACKS, YOU'RE LOOKING AT THE OPPOSITE SIDE.
2 THOSE ARE OLD METERS THAT HAVE BEEN EXTRACTED FROM RESIDENTIAL
3 HOMES. THEY ARE RESIDENTIAL. AND THEN THE ITEMS ON THE CART
4 ARE FOR ANOTHER SECTION. THEY DO THE INSTALLATION OF NEW AMI
5 SMART METERS.

6 Q. DID THIS WORK STATION, WORK LOCATION, HAVE AN ODOR?

7 A. YES, SIR.

8 Q. WHAT WAS THE ODOR? DESCRIBE IT.

9 A. ADJACENT TO THIS AREA, ON THE BACK END IS THE MEN'S
10 RESTROOM. THE CHOLLAS OPERATIONAL YARD, OF COURSE THIS HAS
11 BEEN DEMOLISHED, BUT THERE'S PIPING. ESPECIALLY WHEN THERE'S
12 RAINY DAYS AND THEY HAVE A BACKUP, YOU SMELL A ODOR FROM THE
13 RESTROOM TO YOUR OFFICE.

14 Q. YOU SMELL THE RESTROOM FROM YOUR OFFICE?

11:40:34

15 A. EVERY DAY. SOME MORE STRONGER THAN OTHERS.

16 Q. WHILE YOU WERE THERE TAKING PHOTOS, OR MR. CADIEUX WAS, DID
17 YOU TAKE PHOTOS OF WHERE THAT PIPE WAS?

18 A. I BELIEVE THERE'S A PHOTO OF THE PIPE.

19 Q. LET'S CLOSE DOWN THIS AND SHOW THE NEXT JUST TO THE WITNESS
20 PLEASE. NOW SHOWING YOU EXHIBIT 26, PAGE 7, DO YOU RECOGNIZE
21 WHAT YOU SEE HERE, SIR?

22 A. YES.

23 Q. WAS THIS PHOTOGRAPH ALSO TAKEN ON DECEMBER 28TH, 2017?

24 A. YES, SIR.

25 Q. WHAT DOES IT DEPICT?

11:41:10

1 A. IT'S A HOLE IN OUR WORK AREA. IT'S MORE CLOSER TO MY
2 CO-WORKER THAN MINE, BUT WE STAY IN THE SAME SPOT. AND IF YOU
3 CAN PEAK INTO IT, THAT AREA IS WHERE THAT RUSH OF AIR, COMES
4 FROM THE URINAL AREA OF THE MEN'S RESTROOM.

5 Q. OFFER TO PUBLISH THIS PAGE, YOUR HONOR.

6 MR. SCHAEFER: NO OBJECTION, YOUR HONOR.

7 THE COURT: OKAY.

8 BY MR. VANDERPOOL:

9 Q. SO ELYSIA, IF WE CAN FOCUS IN ON THIS -- CAN WE SEE THE
10 PIPING, THE VENT PIPE YOU REFER TO, SIR?

11 A. YES, SIR.

12 Q. SO THAT'S A PIPE THAT'S GOING VERTICAL WITH AN OPEN TOP?

13 A. I THINK IT'S HORIZONTAL, BUT IT'S NOT ACTUALLY THE PIPE
14 THAT STINKS. IT'S THAT HOLE THAT ALLOWS WHATEVER IS BEHIND
15 THERE TO COME INTO THERE. SO WE JUST REFER TO IT AS THE PIPE.

11:42:04

16 BUT THE PIPE IS NOT THE SMELL. THE SMELL IS THE SMELL, SIR.

17 Q. WHO HUNG THE BEADS AND THE FROG OR TOAD THERE?

18 A. MY CO-WORKERS, SIR.

19 Q. DO YOU KNOW WHY?

20 A. BECAUSE SHE WAS DECORATING SOMETHING THAT -- I WAS TRYING
21 TO PARAPHRASE IT BUT, YOU KNOW, PUTTING LIPSTICK ON A PIG. I
22 DON'T WANT TO MAKE NO PROFANITIES.

23 Q. LET'S GO CLOSE THAT AND SHOW THE WITNESS THE NEXT PAGE OF
24 EXHIBIT 26, PAGE 3. SIR, DO YOU RECOGNIZE WHAT'S DEPICTED IN
25 THIS PHOTOGRAPH?

11:42:47

1 A. YES.

2 Q. IN THIS PHOTOGRAPH VANTAGE POINT, CAN WE ALSO SEE THAT
3 VENTILATING SHAFT IN THE BACK OF THIS PHOTO?

4 A. YES.

5 Q. IS THIS PHOTO TAKEN THE SAME DAY THAT YOU WERE THERE WITH
6 CITY REPRESENTATIVES?

7 A. YES.

8 Q. OFFER TO PUBLISH THIS PAGE, YOUR HONOR.

9 THE COURT: ANY OBJECTION?

10 MR. SCHAEFER: NO, YOUR HONOR.

11 THE COURT: BE ENTERED.

12 BY MR. VANDERPOOL:

13 Q. PAGE THREE, SO THIS PHOTO IS TAKEN FROM JUST OUTSIDE THAT
14 OFFICE SPACE, MR. JOHNSON?

11:43:20

15 A. YES, SIR.

16 Q. LET'S SHOW THE NEXT PHOTOGRAPH IN THIS EXHIBIT, JUST TO THE
17 WITNESS, PAGE FIVE. DO YOU RECOGNIZE -- ARE THESE THE SAME
18 GREEN RACKS THAT WE SAW IN THE FIRST PHOTOGRAPH WITHIN THIS
19 SEQUENCE?

20 A. YES, SIR.

21 Q. THESE ARE THOSE RETIRED WATER METERS?

22 A. YES, SIR.

23 Q. PHOTOGRAPH TAKEN THE SAME DAY, SAME TIME YOU WERE THERE ON
24 DECEMBER 28TH?

25 A. YES, SIR.

11:43:55

1 Q. OFFER TO PUBLISH PAGE FIVE, YOUR HONOR.

2 THE COURT: THAT'S STIPULATED TO, ISN'T IT? ISN'T
3 THAT ONE THAT'S STIPULATED TO?

4 MR. SCHAEFER: THERE'S NO OBJECTION, YOUR HONOR.

5 THE COURT: OKAY. BE ENTERED.

6 MR. VANDERPOOL: ANY OBJECTION TO THE OTHER
7 TWO, YOUR HONOR, PAGE ONE, FOUR AND SIX?

8 MR. SCHAEFER: ALL PART OF EXHIBIT 26?

9 MR. VANDERPOOL: YES.

10 MR. SCHAEFER: NO OBJECTION.

11 BY MR. VANDERPOOL:

12 Q. OKAY. LET'S GO TO PAGE ONE, PLEASE, ELYSIA. ANOTHER
13 PHOTOGRAPH OUT OF YOUR OFFICE, SIR; WHAT ARE THESE BOXES THERE,
14 BANKERS BOXES STACKED UP?

11:44:37

15 A. THOSE ARE WATER WORK ORDERS THAT ARE IN ORDER. THAT'S HOW
16 I -- IT'S THE ONLY AREA THEY HAVE FOR ME TO KEEP THE RECORDS
17 THAT THEY WANT ME TO HOLD. THEY ARE WORK ORDERS FOR METER
18 REPLACEMENTS.

19 Q. THANK YOU. NEXT PAGE, PLEASE, PAGE FOUR. WHAT ARE THESE
20 TOWERS OR CANISTERS IN THESE PHOTOS, SIR?

21 A. THOSE ARE THE OLD GENERATION WATER TESTING METERS. TO THE
22 RIGHT OF THE PICTURE OF THE BENCH, THOSE TOWERS ARE FILLED WITH
23 WATER. SO ALL DAY YOU HEAR THE WATER BEING FILLED. IT IS
24 CIRCULATED AND GOES TO ANOTHER TANK. SO A RECYCLE OF A TESTING
25 OF A RESIDENTIAL METER. IN FACT, IN THAT PICTURE YOU CAN SEE A

11:45:38 1 NEW AMI METER, AN OLD METER, AND THAT'S THE CIRCULATION, SIR.
2 Q. OKAY. LET'S GO TO THE LAST PHOTO IN THIS SEQUENCE. WHAT
3 IS SHOWN IN THIS PICTURE?
4 A. ELECTRICAL UNIT, SIR, NEXT TO THE TEST BENCH.
5 Q. DID YOU JUST OVERVIEW FOR THE JURY, SIR, WHAT YOUR JOB
6 DUTIES HAVE BEEN ON THE AMI PROJECT SINCE YOU'VE BEEN AT PUD
7 BESIDES WHAT YOU ALREADY TOLD US?
8 A. NO, THAT'S IT. RETIRE OLD RESIDENTIAL METERS AND CATALOG
9 THEM.
10 Q. DID YOUR SUPERVISOR CHANGE?
11 A. MANY TIMES.
12 Q. WHO ARE YOU REPORTING TO NOW?
13 A. YVONNE FAIAI.
14 Q. DO YOU KNOW IF ANY OF YOUR SUPERVISORS AT PUD HAVE WORKED
11:46:32 15 FOR THE CITY SHORTER TIME THAN YOU HAVE?
16 A. YES.
17 Q. HAVE THE GOALS OF THE ASSIGNED PROJECTS OR PROJECT THAT
18 YOU'VE WORKED ON BEEN COMMUNICATED TO YOU?
19 A. JUST MY PORTION.
20 Q. HAVE YOU COMPLETED ALL THE PROJECTS, ASSIGNMENTS, GIVEN TO
21 YOU?
22 A. I DO THE BEST I CAN. THE PROJECT'S TEMPORARY, THREE YEARS.
23 SO UNTIL IT'S DONE, I'M DONE.
24 Q. ARE YOU PRESENTLY -- WE HEARD FROM MR. CADIEUX -- WORKING
25 IN A DIFFERENT WORK LOCATION?

11:47:16

1 A. NO, I'M STILL AT CAMILLE CHOLLAS.

2 Q. ARE YOU REPORTING TO AN OFFICE OR SOMETHING PORTABLE?

3 A. TEMPORARY TRAILER AT THE BACK OF THE YARD.

4 Q. HOW LONG HAVE YOU BEEN REPORTING THERE, WORKING THERE?

5 A. OVER A YEAR.

6 Q. DO YOU KNOW WHAT'S NEXT ON YOUR JOB ASSIGNMENT HORIZON AT

7 THE PUD?

8 A. NO, SIR.

9 Q. DO YOU SUPERVISE ANY EMPLOYEES AT PUD NOW?

10 A. NO, SIR.

11 Q. DID YOU AT ANY TIME?

12 A. YES, SIR.

13 Q. WHEN?

14 A. ROUGHLY AFTER I STARTED I WAS INTRODUCED TO TWO STAFF

11:47:53

15 MEMBERS TO SUPERVISE, BUT LATER IT CHANGED BECAUSE OF THE

16 PROJECT.

17 Q. BECAUSE WHAT?

18 A. BECAUSE OF THE PROJECT.

19 Q. ANY CHALLENGES IN THAT SUPERVISORY DUTIES?

20 A. YES, SIR.

21 Q. WHAT?

22 A. THE EMPLOYEES THAT WAS ASSIGNED TO ME, SIR.

23 Q. WHAT WAS THE PROBLEM?

24 MR. SCHAEFER: YOUR HONOR, I'M GOING TO OBJECT ON

25 RELEVANCY.

11:48:21

1 THE COURT: I DON'T WANT TO GET INTO THIS.

2 MR. VANDERPOOL: I'LL REPHRASE, YOUR HONOR.

3 BY MR. VANDERPOOL:

4 Q. DID YOU KNOW YOU WOULD BE SUPERVISING ANY EMPLOYEES WHEN
5 YOU CAME OVER?

6 A. NO.

7 Q. WHEN YOU FOUND OUT YOU WOULD BE SUPERVISING, DID YOU KNOW
8 WHO THEY WERE?

9 A. NO.

10 Q. DID YOU OBTAIN ANY INFORMATION ABOUT THEIR REPUTATION?

11 A. NO.

12 Q. BUT AT SOME POINT WHEN DID YOU STOP SUPERVISING THEM?

13 A. WITHIN 6 MONTHS, SIR.

14 Q. ALL RIGHT. LET ME SEE IF I CAN SHOW JUST TO THE WITNESS
15 ONLY EXHIBIT 27, PAGE TWO. THIS IS ALSO NOT STIPULATED, YOUR

11:48:52

16 HONOR. IT'S ANOTHER PHOTO. WE HAVE JUST TWO HERE.

17 THE COURT: OKAY. IT'S NOT STIPULATED TO. JUST SHOW
18 IT TO US AND LET ME LOOK AT IT.

19 MR. VANDERPOOL: YEAH.

20 BY MR. VANDERPOOL:

21 Q. WHAT'S DEPICTED IN THIS PHOTO, YOUR HONOR?

22 A. THAT'S THE OPERATION YARD IN CHOLLAS. THAT'S TWO OF THE
23 TRAILERS OF NINE.

24 Q. AND WHAT DATE WAS THIS PHOTO TAKEN?

25 A. I BELIEVE IT WAS ON THE SITE VISIT RIGHT BEFORE NEW YEAR'S,

11:49:27

1 2017.

2 Q. ON OR ABOUT -- WITH MR. CADIEUX PRESENT?

3 A. YES. YES.

4 Q. SO SAME VISIT WHEN YOU PHOTOGRAPHED YOUR OFFICE?

5 A. YEAH. THIS WAS BEFORE WE WERE INHABITING THAT AREA. SO
6 YOU'LL SEE IT'S TAPED OFF WITH PROTECTIVE FENCING. YOU CAN'T
7 GO IN THERE AT THAT TIME.

8 Q. SO IS THIS TRAILER THE ONE YOU'RE NOW REPORTING OR WORK
9 IN?

10 A. IT'S SIMILAR, SIR.

11 Q. OFFER TO PUBLISH 27, PAGE TWO.

12 MR. SCHAEFER: NO OBJECTION, YOUR HONOR.

13 THE COURT: OKAY.

14 (EXHIBIT 27 ADMITTED.)

11:50:03

15 BY MR. VANDERPOOL:

16 Q. OFF IN THE BACK THERE, ARE THOSE CITY UTILITY TRUCKS?

17 A. YES, SIR, IT'S COMMON.

18 Q. AND THE LAST PICTURE OF 27 IS PAGE 1. WHAT'S DEPICTED
19 HERE, SIR?

20 A. MY ASSIGNED WORK AREA CUBICLE AND TEMPORARY TRAILER.

21 THE CLERK: I'M SORRY, COUNSEL. YOU WANT IT JUST FOR
22 THE WITNESS, RIGHT?

23 MR. VANDERPOOL: JUST THE WITNESS. THANK YOU.

24 BY MR. VANDERPOOL:

25 Q. IS THIS THE WORK LOCATION BEFORE YOU MOVED INTO IT?

11:50:40

1 A. YES, SIR.

2 Q. PICTURE TAKEN SAME DATE?

3 A. YES, SIR.

4 Q. OFFER TO PUBLISH PAGE 1 OF EXHIBIT 27?

5 THE COURT: ANY OBJECTION TO THAT?

6 MR. SCHAEFER: NO OBJECTION.

7 THE COURT: OKAY. BE ENTERED.

8 BY MR. VANDERPOOL:

9 Q. BESIDES WHAT YOU'VE TOLD US SO FAR, HOW IS THE WORK
10 ENVIRONMENT AT PUD DIFFERENT THAN THE CLERK'S OFFICE?

11 A. IN PUD, IT'S A DIFFERENT JOB. IT'S A DIFFERENT
12 ENVIRONMENT, CITY CREWS. IN THE SUMMER, IT'S HOT. YOU HAVE
13 ASPHALT ALL AROUND. I DO THE BEST I CAN TO GO WITH THE FLOW.
14 SO EVERYTHING FROM THE ATTIRE THAT I WEAR TO WORK TO HOW MY DAY
11:51:31 15 IS, MY EVERY DAY IS DIFFERENT THAN WHEN I WAS IN THE CLERK'S
16 OFFICE. IT'S A LOT.

17 Q. DO YOU KNOW HOW MANY ANALYSTS POSITIONS THERE ARE AT PUD?

18 A. NO, SIR. IT'S HUGE.

19 Q. ARE THERE MORE THAN AT THE CLERK'S OFFICE?

20 A. A LOT MORE, SIR.

21 Q. WHAT'S YOUR SENIORITY, MEANING YEARS OF EXPERIENCE, AT
22 PUD?

23 A. I DON'T HAVE ANY SENIORITY, SIR.

24 Q. WELL, YOU HAVE THREE YEARS NOW?

25 A. YEAH, BUT MOST OF MY COLLEAGUES HAVE BEEN AT PUD FOR THEIR

11:52:07 1 | WHOLE CAREER. SO THE WORD CLASSIFICATION IS ONE THING. YOUR
2 | EXPERIENCE AT THE ACTUAL LOCATION DIFFERS. THAT, I'M VERY
3 | AWARE.

4 | Q. CITY COUNCIL AT OPENING STATEMENT SAID SINCE YOUR TRANSFER
5 | YOU HAVEN'T GIVEN MUCH EFFORT TO TRY FOR ANOTHER POSITION.
6 | WHAT EFFORT OR EFFORTS HAVE YOU GIVEN, SIR?

7 | A. I THINK THAT WAS FALSE. I'VE INTERVIEWED LIKE FOUR
8 | DIFFERENT POSITIONS WITHIN THE CITY. I'M TRYING. IT'S HIGHLY
9 | COMPETITIVE. BUT ANY TIME I GET AN INVITATION, I SHOW UP. I
10 | DO THE BEST I CAN.

11 | Q. ARE YOU STILL ON A TRANSFER LIST?

12 | A. YES, SIR.

13 | Q. HAVE YOU -- SO YOU'VE PUT IN ACTUAL APPLICATIONS FOR --

14 | A. THAT'S NOT HOW THE CITY RUNS.

11:53:04 15 | Q. THAT'S NOT HOW IT WORKS?

16 | A. NO.

17 | Q. YOU GET INVITED TO AN INTERVIEW?

18 | A. YEAH, VIA E-MAIL.

19 | Q. WHAT CLASSIFICATIONS HAVE YOU APPLIED OR INTERVIEWED FOR?

20 | A. I'M ONLY -- I'M ONLY ALLOWED TO INTERVIEW FOR MY CURRENT
21 | POSITION OF ADMINISTRATIVE TWO UNLESS THE POSITION HAS A CAVEAT
22 | WHERE IT UNDER FILLS, SO AN ACCEPTANCE OF MY CLASSIFICATION TO
23 | UNDER FILL FOR A CERTAIN TIME FOR A PROMOTIONAL OPPORTUNITY.
24 | MOST OF WHAT I GET IS JUST FOR BASIC LATERALS, JOB LATERALS,
25 | DIFFERENT CLASSIFICATION.

11:53:47

1 Q. MEANING LATERAL, DIFFERENT DEPARTMENT, SAME
2 CLASSIFICATION?

3 A. YES, SIR.

4 Q. WHY ISN'T THAT OF INTEREST TO YOU?

5 A. IT PUT ME IN A HANDICAP BECAUSE MOST OF THE INTERVIEWS THAT
6 GO DOWN IN PUD, I GET AN INVITATION, AND I GO AND DO MY BEST,
7 BUT UNFORTUNATELY, I HAVEN'T BEEN SELECTED.

8 Q. DO YOU STILL ASPIRE TO FURTHER PROMOTE IN YOUR CAREER WITH
9 THE CITY?

10 A. I ASPIRE TO DO THE BEST I CAN AS A MAN TO TAKE CARE OF HIS
11 FAMILY. SO OPPORTUNITY KNOCKS, I LOOK THROUGH THE PEEPHOLE IN
12 THE DOOR.

13 Q. ARE THERE OBSTACLES IN YOUR WAY TO PROMOTE?

14 A. YES, SIR.

11:54:29

15 Q. WHAT?

16 A. FOR INSTANCE, I SPENT 13 YEARS WORKING WITH RESOLUTIONS,
17 ORDINANCES, MAPS, PROGRAMS, AND NOW I DEAL WITH METERS. AND
18 BEFORE I STARTED, I DIDN'T KNOW WHAT A BACK FLOW WAS, DIDN'T
19 KNOW WHAT A VALVE WAS, DIDN'T KNOW WHAT CROSS-CONNECTIONS WAS.
20 AND SO I'M A SPONGE SO I DO THE BEST I CAN TO LEARN THE ASPECTS
21 OF IT, BUT IT'S SO VAST. IT'S A LOT OF STUFF TO LEARN. WATER
22 MAIN BREAKS ON MY END WOULD BE -- I WOULDN'T BE IN THE FIELD
23 BUT EVERY ACTION IN THE FIELD GENERATES PAPERWORK OR GENERATES
24 AN OPERATION ON THE BACK END. SO THERE'S ALWAYS WORK TO DO BUT
25 UNDERSTANDING THE WORK IS A TOTALLY DIFFERENT BALL GAME. IT'S

11:55:23 1 LIKE A DIFFERENT FIELD, SIR.

2 Q. HAVE YOUR EMPLOYMENT EXPERIENCE IN THE CITY THESE LAST
3 THREE AND A HALF YEARS AFFECTED YOU?

4 A. YES, SIR.

5 Q. HOW SO?

6 A. I USED TO HAVE REAL PRIDE AS A CITY EMPLOYEE. DOWNTOWN
7 HERE WE WEAR OUR BADGES ON OUR LANYARDS. AT PUD, IN THE AREA
8 THAT I AM IN, IT'S NOT GOING ANYWHERE. WE'RE TAPERING DOWN.
9 I'M NOT A ROCKET SCIENTIST, BUT I'M BRIGHT ENOUGH TO KNOW THAT
10 THEY'RE RETIRING THINGS, SHUTTING OR REDUCING A LOT OF THINGS.
11 SO YOU FEEL UNCERTAIN. YOU FEEL LIKE -- SOME OF THE
12 OPERATIONAL TRUCKS, YOU ONLY HAVE THEM THREE OR FIVE YEARS.
13 AFTER A WHILE, A NEW CHEVY COMES ALIVE, A NEW FORD COMES ALIVE.
14 I FEEL LIKE I'M IN AN AREA, A TASK THAT'S ON ITS WAY OUT, AND
11:56:31 15 IT MAKES YOU HAVE AN UNEASY FEELING.

16 THE COURT: OKAY. YOU ANSWERED THE QUESTION. MOVE
17 ON.

18 BY MR. VANDERPOOL:

19 Q. WHAT ARE YOU SEEKING IN THIS CASE?

20 A. JUSTICE.

21 Q. WHAT?

22 A. I SEEK JUSTICE. I FEEL LIKE I WAS DONE WRONG THE LAST
23 THREE OR FOUR YEARS.

24 Q. WHAT HAVE YOU LOST?

25 A. I'VE LOST A LOT. I LOST THE ABILITY TO LOOK AT THE CITY

11:57:16 1 LOGO AND BE PROUD OF IT. I LOST THINGS THAT YOU CAN'T PUT A
2 PRICE TAG ON. YOU'RE REMINDED EVERY DAY WHEN YOU'RE AT WORK OF
3 WHAT HAD HAPPENED. I BELIEVE I GOT THE SHORT END OF THE STICK
4 FOR DOING THE RIGHT THING.

5 Q. CAN YOU GET ANY OF THAT BACK, SIR, THAT YOU LOST?

6 A. I DON'T THINK SO.

7 Q. PASS THE WITNESS.

8 THE COURT: OKAY. I'D LIKE TO START. I HAVE A
9 MATTER THAT I PERSONALLY HAVE TO TAKE UP AT 12:30, AND I
10 ONLY WANT TO TAKE ABOUT A HALF HOUR. SO LET'S GET
11 STARTED, AND WE CAN GO ABOUT 15 MINUTES, AND THEN WE'LL
12 TAKE A BREAK FOR LUNCH.

13 MR. SCHAEFER: YES, YOUR HONOR.

14 CROSS-EXAMINATION

11:58:32 15 BY MR. SCHAEFER:

16 Q. GOOD MORNING, MR. JOHNSON.

17 A. GOOD MORNING, SIR.

18 Q. ISN'T IT TRUE THAT SHEILA BEALE, FAIRLY EARLY ON IN YOUR
19 CAREER WHEN YOU WERE AN ADMINISTRATIVE ONE AIDE, SHE HELPED YOU
20 GET PROMOTED TO THE POSITION OF ADMINISTRATIVE AIDE TWO?

21 A. I EARNED THAT.

22 Q. BUT SHE HELPED YOU, DIDN'T SHE?

23 A. PAPERWORK, YES.

24 Q. I'M SORRY?

25 A. SHE APPLIED, YES, SIR.

11:59:15 1 Q. ARE YOU SAYING THOUGH THAT SHE DIDN'T HELP YOU BEYOND JUST
2 SUBMITTING THE APPLICATION?

3 A. I DID THE WORK, SIR.

4 Q. YOUR HONOR, I WOULD LIKE LEAVE TO PUBLISH A SECTION OF
5 PLAINTIFF'S DEPOSITION, PAGE 249, LINES 14 THROUGH 20, WHICH WE
6 HAVE A VIDEO CLIP OF.

7 THE COURT: WELL, GIVE A MINUTE TO LET COUNSEL LOOK
8 AT IT.

9 MR. VANDERPOOL: 249 WHAT?

10 MR. SCHAEFER: I PUT IT ON THE SCREEN FOR YOU.

11 MR. VANDERPOOL: I'D JUST LIKE TO READ IT.

12 MR. SCHAEFER: BUT IT HAS THE TRANSCRIPT AS WELL,
13 LINES 14 THROUGH 20.

14 MR. VANDERPOOL: I CAN'T SEE LINES 14 THROUGH 20.

12:00:10 15 THE COURT: WELL, IF YOU HAVE IT IN A CLIP, WE CAN
16 JUST SHOW IT TO, NOT THE JURY, SHOW IT TO EVERYBODY ELSE,
17 AND THAT WAY YOU WON'T HAVE TO FISH THROUGH THE BOOK.

18 MR. VANDERPOOL: NO OBJECTION.

19 THE COURT: OKAY.

20 MR. SCHAEFER: IF YOU CAN PLAY THAT ONE CLIP, IT'S
21 CLIP 12.

22 (VIDEO DEPOSITION PLAYED.)

23 BY MR. SCHAEFER:

24 Q. THAT WAS AT YOUR DEPOSITION OF JANUARY 16TH, 2018;

25 CORRECT?

12:01:16

1 A. THAT'S TRUE.

2 Q. AND BEFORE THE DEPOSITION, YOU WERE PUT UNDER OATH; IS THAT
3 RIGHT?

4 A. YES.

5 Q. THAT'S THE SAME OATH YOU'VE TAKEN IN THIS PROCEEDING?

6 A. ABSOLUTELY.

7 Q. NOW, YOU MENTIONED THERE WERE TIMES WHEN MS. BEALE
8 NOMINATED YOU FOR EMPLOYER -- EMPLOYEE OF THE QUARTER; IS THAT
9 CORRECT?

10 A. CORRECT.

11 Q. YOU SAID THERE WERE TWO TIMES?

12 A. I BELIEVE SO, YES, SIR.

13 Q. OKAY. IF WE COULD DISPLAY WHAT'S BEEN STIPULATED TO AS
14 EXHIBIT 105. MR. JOHNSON, I DON'T WANT TO GO THROUGH THIS

12:02:04

15 ENTIRE NOMINATION FORM, BUT IF WE COULD GO TO PAGE TWO, IS THIS
16 THE, ONE OF THE NOMINATIONS THAT MS. BEALE MADE ON JUNE 26TH,
17 2013, NOMINATING YOU FOR EMPLOYER -- EMPLOYEE OF THE QUARTER?

18 A. YES, SIR.

19 Q. AND DO YOU SEE WHERE I'M CIRCLING HERE SHE SAID IN
20 NOMINATING YOU, BACK IN 2013: RASEAN HAS DONE AN OUTSTANDING
21 JOB THIS QUARTER AND HAS DEFINITELY GONE MORE THAN AN EXTRA
22 TRIAL IN THE PERFORMANCE OF HIS JOB, THREE EXCLAMATION POINTS;
23 DO YOU SEE THAT?

24 A. YES, SIR.

25 Q. AND SHE CONCLUDED WITH THIS PERSONAL STATEMENT TO YOU

12:03:02 1 STATING: RASEAN, YOU HAVE DONE AN EXCELLENT JOB ON ALL FRONTS,
2 AND I WANT TO COMMEND YOU FOR BEING AN ASSET TO THE CITY
3 CLERK'S OFFICE AND THE CITY AS A WHOLE; IS THAT RIGHT?

4 A. YES, SIR.

5 Q. NOW IF WE CAN PUT WHAT'S BEEN STIPULATED TO AS EXHIBIT 127,
6 AND GO TO THE SECOND PAGE. THERE'S ONLY ONE PAGE, I APOLOGIZE.
7 GO TO THE BOTTOM. AND THEN ON JULY 2ND, 2014, MS. BEALE AGAIN
8 NOMINATED YOU FOR EMPLOYEE OF THE QUARTER; IS THAT CORRECT?

9 A. YES, SIR.

10 Q. AND SHE NOTED HOW WELL YOU WORKED WITH ELENA MENDOZA. DO
11 YOU SEE THAT WHERE SHE SAID YOU MANAGED TO WORK WITH HER TO
12 AUDIT OVER 1700 ROLLS OF MICROFILM?

13 A. I'M FAMILIAR WITH THIS.

14 Q. IS THAT CORRECT, YOU HAD A GOOD WORKING RELATIONSHIP WITH
15 MS. MENDOZA?

12:04:16

16 A. YES.

17 Q. SOMEONE YOU TRUSTED?

18 A. A WORKING RELATIONSHIP, SIR.

19 Q. A POSITIVE WORKING RELATIONSHIP, SIR?

20 A. AS WE ALL SHOULD, SIR.

21 Q. AND MS. BEALE SAID, IN CONCLUSION, ANOTHER PERSONAL NOTE TO
22 YOU: RASEAN, YOU HAVE DONE AN EXCELLENT JOB ON ALL FRONTS, AND
23 I WANT TO COMMEND YOU FOR YOUR LEADERSHIP, PROFESSIONALISM AND
24 POSITIVE CONTRIBUTIONS THAT YOU MAKE TO THE CITY CLERK'S OFFICE
25 ON A DAILY BASIS?

12:04:49

1 A. I BELIEVE THAT'S ACCURATE.

2 Q. AND DO YOU FEEL LIKE SHE WAS BEING SINCERE IN THE WORDS SHE
3 CHOSE IN NOMINATING YOU?

4 A. AT THE TIME, AND I CONTINUE TO DO THE BEST I CAN EVERY DAY
5 FOR THE CITY OF SAN DIEGO.

6 Q. AND IF WE COULD GO TO EXHIBIT 131 PLEASE. SO THERE WAS
7 ACTUALLY A THIRD TIME SHE NOMINATED YOU FOR EMPLOYEE OF THE
8 QUARTER; IS THAT CORRECT?

9 A. YES, SIR.

10 Q. AND IF WE COULD GO TO THE SECOND PAGE OF THIS AND ALL THE
11 WAY DOWN SO WE CAN GET THE DATE TOO. AND THIS ONE WAS MARCH
12 30TH, 2015; IS THAT CORRECT?

13 A. IT'S DATED 3-30-15.

12:05:55

14 Q. AND THERE'S A LONG PARAGRAPH AT THE TOP WHERE SHE'S TALKING
15 ABOUT HOW THERE WAS THIS PROBLEM WITH THE RESOLUTIONS BEING A
16 MESS AND YOU WORKED TO STRAIGHTEN IT ALL OUT. BASICALLY THAT'S
17 IT, A SUMMARY; CORRECT?

18 A. CORRECT, SIR.

19 Q. AND SHE CONCLUDES WITH ANOTHER PERSONAL NOTE TO YOU: THIS
20 IS A LONG PROJECT, BUT RASEAN, YOU ARE COMMENDED FOR ALL THE
21 HARD WORK YOU HAVE INVESTED IN THE DEVELOPMENT OF THIS
22 ASSIGNMENT. YOUR POSITIVE ATTITUDE AND CAN-DO MIND SET HAS
23 MADE ALL THE DIFFERENCE. IS THAT CORRECT?

24 A. YES.

25 Q. DO YOU BELIEVE SHE WAS BEING SINCERE THERE?

12:06:41

1 A. I DON'T KNOW HOW SHE WAS FEELING, SIR.

2 Q. DO YOU HAVE ANY REASON TO DOUBT HER SINCERITY WHEN MAKING
3 THAT STATEMET ABOUT YOU?

4 A. I DON'T MAKE THOSE JUDGMENTS, SIR.

5 Q. IS IT A FACT THAT TO YOU IT IS AN HONOR TO RECEIVE THE
6 EMPLOYEE OF THE QUARTER NOMINATION?

7 A. IF IT'S ACCURATE.

8 Q. BUT IT IS A PERSONAL HONOR TO BE NOMINATED, CORRECT, FOR
9 YOU?

10 A. IT DEPENDS, SIR.

11 Q. YOUR HONOR, I REQUEST LEAVE TO PUBLISH WHAT'S BEEN MARKED
12 IN THE DEPOSITION AT PAGE 301, STARTING AT LINE 20, TO PAGE
13 302, LINE THREE.

14 MR. VANDERPOOL: NO OBJECTION.

12:07:47

15 THE COURT: OKAY.

16 (VIDEO DEPOSITION PLAYED.)

17 BY MR. SCHAEFER:

18 Q. SO YOU WERE PROUD, WERE YOU NOT, THAT ON THREE SEPARATE
19 OCCASIONS, YOUR SUPERVISOR, MS. BEALE, NOMINATED YOU FOR
20 EMPLOYEE OF THE QUARTER WITHIN THE SAN DIEGO CITY CLERK'S
21 OFFICE?

22 A. YES.

23 Q. HAVE YOU EVER HEARD THE TERM "DISCRETIONARY LEAVE"?

24 A. YES.

25 Q. AND WHAT IS DISCRETIONARY LEAVE, IF YOU CAN TELL THE LADIES

12:08:45 1 AND GENTLEMEN OF THE JURY?

2 A. WITHIN THE CITY OF SAN DIEGO, DISCRETIONARY IS A LEAVE YOU
3 CAN USE ANY TIME AS VACATION LEAVE THAT CAN BE APPROVED OR
4 PASSED DOWN TO AS A REWARD AS EITHER OF GOOD SERVICE. YEAH, SO
5 THAT'S DISCRETIONARY LEAVE.

6 Q. SO A SUPERVISOR, CORRECT ME IF I'M WRONG, CAN, BECAUSE OF
7 EXCEPTIONAL WORK PERFORMANCE, GIVE AN EMPLOYEE A DISCRETIONARY
8 LEAVE DAY OR DAYS WHICH IS KIND OF LIKE A VACATION DAY?

9 A. YES, SIR, YES, KIND OF.

10 Q. IF WE CAN GO TO EXHIBIT 108 PLEASE. THIS IS A STIPULATED
11 EXHIBIT. JUNE 28TH, 2013, DID MS. BEALE ON THAT OCCASION GIVE
12 YOU TWO DAYS OF DISCRETIONARY LEAVE FOR YOUR, QUOTE, HARD WORK
13 AND STRONG WORK ETHIC?

14 A. YES SIR.

12:09:51 15 (EXHIBIT 108 ADMITTED.)

16 Q. AND FOR YOUR POSITIVE ATTITUDE AND WILLINGNESS TO SUPPORT
17 THE DEPARTMENT, DID SHE DO THAT?

18 A. THAT'S CORRECT.

19 Q. AND THERE WAS A PERSONAL NOTE IN THE MEMO AUTHORIZING THAT
20 LEAVE AT THE END: THANK YOU, RASEAN, FOR ALL YOUR HARD WORK.
21 YOU ARE AN ASSET TO THE OFFICE AND THE CITY AS A WHOLE. IS
22 THAT RIGHT?

23 A. IT WAS WRITTEN, SIR, YES, SIR.

24 Q. AND THEN IF WE CAN GO TO EXHIBIT 123, ANOTHER STIPULATED
25 EXHIBIT, ON MAY 21ST, 2014, DO YOU SEE WHERE SHE AGAIN AWARDED

12:10:39 1 YOU TWO DAYS OF DISCRETIONARY LEAVE BASED ON YOUR COMMITMENT ON
2 A DAILY BASIS?

3 A. YES, SIR.

4 (EXHIBIT 123 ADMITTED.)

5 Q. AND AGAIN THANKED YOU AT THE CONCLUSION OF THIS MEMO FOR
6 ALL OF YOUR HARD WORK?

7 A. YES, SIR.

8 Q. AND THEN LAST, IF WE COULD GO TO EXHIBIT 132; AND DO YOU
9 SEE THE NEXT YEAR, APRIL 22, 2015, SHE AWARDED YOU THREE DAYS
10 OF DISCRETIONARY LEAVE BASED ON EXCEPTIONAL WORK PERFORMANCE
11 AND THANKED YOU FOR ALL YOUR HARD WORK AND EXCELLENT
12 CONTRIBUTIONS TO THE CITY CLERK'S OFFICE?

13 A. THAT MEMORANDUM IS TRUE.

14 (EXHIBIT 132 ADMITTED.)

12:11:30 15 Q. YOU, AS A SUPERVISOR, HAVE YOU DONE THAT AS WELL WHEN
16 YOU'VE HAD EMPLOYEES YOU SUPERVISE, EXCELLENT PERFORMANCE, GIVE
17 THEM DISCRETIONARY LEAVE OR RECOMMEND IT TO YOUR HIGHER-UPS?

18 A. I MAKE RECOMMENDATIONS. I PROVIDED THOSE WHEN THEY WERE
19 WARRANTED, SIR.

20 Q. HAVE YOU EVER HEARD OF THE GOLDEN PERFORMANCE
21 RECOGNITION?

22 A. WITHIN THE OFFICE OF THE CITY CLERK, YES.

23 Q. AND WHAT IS THAT?

24 A. IT'S A KUDOS, AN ATTABOY, FOR EXCEPTIONAL WORK IN A FORM
25 WITH PRETTY TEXT, SIR.

12:12:15 1 Q. IF WE COULD DO EXHIBIT 134 PLEASE. JUNE 16, 2015, DID YOUR
2 SUPERVISOR, MS. BEALE AT THAT TIME RECOGNIZE YOU THROUGH THE
3 GOLDEN PERFORMANCE RECOGNITION?

4 A. YES.

5 (EXHIBIT 134 ADMITTED.)

6 Q. FOR THE EXCELLENT CUSTOMER SERVICE THAT YOU DID?

7 A. FOR THE CITY ATTORNEY'S OFFICE, CIVIL DIVISION.

8 Q. SHE CONCLUDED, DID SHE NOT, IT'S ALWAYS A PLEASURE TO SPEAK
9 AND WORK WITH HIM?

10 A. IT'S WRITTEN, SIR.

11 Q. WERE YOU PROUD TO RECEIVE THAT RECOGNITION?

12 A. YES.

13 Q. THANK YOU. NOW WE'VE HAD SOME DISCUSSION ABOUT THE LAST
14 PERFORMANCE EVALUATION YOU RECEIVED, AND I DON'T PLAN TO GO

12:13:16 15 THROUGH ALL YOUR PERFORMANCE EVALUATIONS, MAYBE ONE OTHER, BUT
16 WOULD YOU AGREE THAT ALL OF YOUR PERFORMANCE EVALUATIONS BY MS.
17 SHEILA BEALE WERE POSITIVE?

18 A. YES, BECAUSE I'M A POSITIVE EMPLOYEE.

19 Q. BUT -- WELL LET'S GO TO EXHIBIT 120, AND IF WE COULD JUST
20 EXPAND THE DATE OF THIS EVALUATION. SO THIS PARTICULAR
21 EVALUATION, IT'S NOT THE ONE WE LOOKED AT BEFORE, BUT IT'S THE
22 PREVIOUS ONE; IS THAT CORRECT?

23 A. YES.

24 Q. AND THAT WOULD BE FOR THE APRIL 10TH, 2014, PERIOD,
25 CONCLUDING APRIL 9TH, 2015; IS THAT RIGHT?

12:14:24

1 A. AS IT IS WRITTEN.

2 Q. OKAY. WOULD IT BE FAIR TO SAY THESE EVALUATIONS TRACK
3 BASICALLY THE SAME ANNUAL PERIOD?

4 A. YES, SIR.

5 Q. SO IN THIS PARTICULAR EVALUATION -- LET'S GO TO THE SECOND
6 PAGE PLEASE AND MAYBE IF WE CAN EXPAND THE LAST COUPLE
7 PARAGRAPHS AT THE END THERE, THE LAST PAGE -- SO THE SECOND TO
8 LAST PARAGRAPH THERE, MS. BEALE, SHE NOTES IT'S BEEN A BUSY
9 YEAR FOR YOU; IS THAT CORRECT?

10 A. EVERY YEAR IS BUSY, SIR.

11 Q. ALL RIGHT. THAT YOU'RE A HIGH ACHIEVER AND WORK HARD TO
12 ACCOMPLISH EVERY TASK GIVEN TO YOU WITH A GREAT ATTITUDE,
13 STEADFAST RESILIENCE TO GET THE JOB DONE NO MATTER HOW
14 CHALLENGING. IS THAT TRUE?

12:15:44

15 A. YES, SIR.

16 Q. AND THAT YOU'RE A QUICK LEARNER AND TAKE A LOT OF PRIDE IN
17 YOUR WORK?

18 A. THANK YOU, YES, SIR.

19 Q. AND SHE CONCLUDES YOU'RE WELL-LIKED BY YOUR PEERS AND THAT
20 THE CITY CLERK'S OFFICE WAS FORTUNATE TO HAVE YOU; IS THAT
21 RIGHT?

22 A. IT IS WRITTEN, SIR.

23 Q. NOW I KNOW FOR THE LAST EVALUATION YOU TESTIFIED THAT IT
24 WAS A SLAP IN THE FACE?

25 THE COURT: EXCUSE ME, COUNSEL. LET'S TAKE A BREAK

12:16:11 1 NOW. WE CAN GET INTO THAT WHEN WE COME BACK. AS I SAID
2 YESTERDAY, WE'RE GOING TO KEEP THEM RELATIVELY SHORT SO WE CAN
3 TRY TO GET HOME EARLIER. LET'S COME BACK ABOUT -- LET'S SAY
4 TEN MINUTES TO 1:00. THAT ONLY GIVES YOU 35 MINUTES OR SO, BUT
5 IT SHOULD BE ENOUGH, AND THEN WE CAN CONTINUE SO WE CAN
6 HOPEFULLY GET THROUGH QUICKER. LEAVE YOUR PADS HERE, AND
7 REMEMBER: DON'T TALK ABOUT THIS MATTER AMONG YOURSELVES OR
8 ANYONE ELSE, AND AS I SAY, BE BACK HERE ABOUT TEN TO 1:00.
9 OKAY.

10 (RECESS.)

11 THE COURT: ALL RIGHT. COUNSEL?

12 BY MR. SCHAEFER:

13 Q. GOOD AFTERNOON, MR. JOHNSON.

14 A. GOOD AFTERNOON.

13:00:50 15 Q. BEFORE WE HAD OUR LUNCH BREAK, WE WERE TALKING ABOUT
16 EXHIBIT NUMBER 120, IF YOU COULD PUT THAT BACK ON THE SCREEN
17 PLEASE. AND JUST TO REFRESH YOUR RECOLLECTION, THAT WAS THE
18 EVALUATION FROM APRIL 10, 2014, THROUGH APRIL 9TH, 2015?

19 A. YES, SIR.

20 Q. AND HAVE YOU HAD A CHANCE TO REVIEW THIS EVALUATION BEFORE
21 YOU CAME TO COURT TODAY SO YOU'RE FAMILIAR WITH WHAT'S IN
22 HERE?

23 A. I HAVEN'T REVIEWED THIS DOCUMENT IN A WHILE.

24 Q. OKAY. LET'S GO TO THE SECOND PAGE THEN PLEASE. DO YOU
25 KNOW OF ANYTHING IN THIS PARTICULAR OVERALL JOB PERFORMANCE

13:02:00 1 THAT YOU WOULD CONSIDER, USING YOUR WORDS REGARDING THE OTHER
2 PERFORMANCE, A SLAP IN THE FACE?

3 A. NO.

4 Q. ANYTHING THAT YOU THOUGHT WAS TOO CUTE BY ONE, NOT FAIR?

5 A. NO.

6 Q. OKAY. SO THIS PARTICULAR EVALUATION YOU DON'T TAKE QUARREL
7 WITH?

8 A. NO.

9 Q. YOU DO FEEL LIKE MS. BEALE, SHE DID FAIRLY EVALUATE YOU IN
10 TERMS OF YOUR WORK PERFORMANCE FOR THAT PERIOD OF TIME?

11 A. PERTAINING TO THIS EVALUATION, YES.

12 Q. OKAY. SO LET'S GO TO THE FINAL ONE THAT YOU WERE ASKED
13 ABOUT WHICH IS EXHIBIT 7. YOU WERE ASKED ABOUT THIS BY YOUR
14 LAWYER, AND THIS IS FOR THE PERIOD APRIL 10TH, 2015, THROUGH
15 APRIL 9TH, 2016. DO YOU SEE THAT?

13:02:51 16 A. YES.

17 Q. AND YOU DO ACKNOWLEDGE THAT THE REASON IT CUTS OFF ON THE
18 9TH IS BECAUSE THAT WAS THE PREVIOUS CUTOFF FOR THE PREVIOUS
19 YEAR?

20 A. THE EVALUATION PERIOD IS STATED ON THE DOCUMENT, 4-10-15,
21 4-9-16.

22 Q. IT'S GOING ALONG THAT SAME TRACK IN TIME?

23 A. REPORTING PERIOD, YES, SIR.

24 Q. OKAY. NOTHING UNUSUAL ABOUT THAT TIMEFRAME?

25 A. NO.

13:03:22

1 Q. OKAY. SO WE'LL GO TO PAGE TWO. IS THERE SOMETHING IN
2 PARTICULAR ON PAGE TWO THAT LEADS YOU TO MAKE THAT STATEMENT,
3 THIS IS A SLAP IN THE FACE?

4 A. THIS DOCUMENT HAS BEEN REDACTED. SO I CAN'T SPEAK ABOUT
5 SOMETHING THAT'S NOT ON THIS FORM.

6 Q. WHAT YOU SEE ON THIS FORM -- I'M NOT TALKING ABOUT WHAT --

7 A. THEIR STATEMENT WAS ABOUT THIS EVALUATION, SIR.

8 Q. PARDON?

9 A. THEIR STATEMENT WAS ABOUT THE EVALUATION, SIR.

10 Q. RIGHT. WHAT IS PRINTED HERE, WHAT YOU ACTUALLY SEE, IS
11 THERE ANYTHING HERE THAT YOU WOULD CONSIDER DEROGATORY? YOU
12 SAID IT WAS A SLAP IN THE FACE, THE EVALUATION. THAT'S ALL I'M
13 TRYING TO FIND OUT --

14 A. THE ORIGINAL DOCUMENT.

13:04:14

15 Q. YOUR HONOR, MAY WE APPROACH?

16 THE COURT: YEAH.

17 (THE FOLLOWING PROCEEDINGS WERE HELD AT SIDEBAR:)

18 MR. SCHAEFER: YOUR HONOR, WHEN WE FIRST PROPOSED
19 THIS EXHIBIT, PLAINTIFF'S COUNSEL INSISTED THE FIRST
20 PARAGRAPH, THE FIRST PART OF THE SECOND PARAGRAPH BE
21 REDACTED BECAUSE IT REFERENCES THE RESTRUCTURING. WE DID
22 THAT, AND NOW HE'S SAYING THAT THE THINGS THAT WERE
23 REDACTED ARE WHAT WAS THE BASIS OF HIS COMPLAINT, THAT THE
24 EVALUATION WAS, TO USE HIS WORDS, A SLAP IN THE FACE. SO
25 I'M IN A DILEMMA HERE BECAUSE --

13:10:56

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: WELL, I CAN UNDERSTAND THAT. WHAT DO YOU THINK? IT SEEMS TO ME THE DOOR IS KIND OF -- I DON'T HAVE ANY IDEA WHAT IT SAYS, BUT HE HAS SAID THAT THIS DOCUMENT DOESN'T REFLECT HIS FEELINGS AND THAT'S BECAUSE IT'S MISSING SOMETHING. IT PROBABLY SHOULD GO IN. IS IT THAT DAMAGING TO SOMEBODY IF IT GOES IN?

13:11:03

MR. VANDERPOOL: IT'S A SLIPPERY SLOPE BECAUSE IF THEIR NARRATIVE -- SAY HIS NARRATIVE IS GOING TO BE THAT THERE WAS A RESTRUCTURING, ABOUT WHY HE WAS REMOVED AS IMAGING SUPERVISOR, AND WE MOVE DOWN A SLIPPERY SLOPE TALKING ABOUT HOW THOSE DUTIES WERE ERODED, TAKEN AWAY, IN THE PERIOD WHERE YOUR HONOR EXCLUDED INFORMATION. SO THE IDEA WAS THAT, THE CONCEPT OF REDACTING ABOUT RESTRUCTURING WOULD BE FAIR. IF I MIGHT ADD, I DON'T THINK THE WITNESS IS TALKING ABOUT ANYTHING THAT'S REDACTED. HE'S TALKING ABOUT ESSENTIALLY GETTING GLOWING STUFF IN PAPER BUT BEING TREATED DIFFERENTLY OFF PAPER.

THE COURT: OKAY. WELL, I DON'T WANT TO OPEN THE DOOR THOUGH. SO IT SEEMS TO ME THAT THERE NEEDS TO BE SOME KIND OF A STIPULATION THAT WOULD KIND OF CLARIFY FOR THE JURY WHERE IT DOESN'T OPEN THE DOOR -- BUT I DON'T WANT TO TRY TO BE DOING THAT RIGHT NOW. I THINK WHY DON'T WE JUST SKIP THIS FOR NOW, AND WE'LL DEAL WITH IT WHEN WE FINISH TODAY OR SOMETHING AND SEE HOW WE COME BACK TO IT BECAUSE IF IT GOES IN AND THEN -- AND HE OPENS THE DOOR

13:11:15

1 AND SAYS, WELL, YOU KNOW, THIS GOES BACK TO MY
2 INVESTIGATION THAT I DA, DA, DA, AND IT DOESN'T INCLUDE
3 THAT AND I THOUGHT THAT WAS A SLAP IN THE FACE. BUT THERE
4 HAS TO BE EITHER SOME KIND OF A STIPULATION OR JURY
5 INSTRUCTION THAT DEALS WITH IT BECAUSE THAT'S A GLOWING
6 REPORT, AND HE DOESN'T SAY IT'S GLOWING. SO THE
7 INCONSISTENCY HAS TO BE SOMEHOW EXPLAINED. BUT IT SEEMS
8 TO ME THAT MAYBE FOR THE MOMENT WE MOVE ON AND DEAL WITH
9 IT LATER, AND YOU CAN COME BACK TO IT. BUT WHAT'S YOUR
10 THOUGHTS?

13:11:22

11 MR. VANDERPOOL: WELL, JUST TO BE ALSO CLEAR, YOUR
12 HONOR, COUNSEL CHARACTERIZING IT THAT HE SAID SLAP IN THE
13 FACE. THAT WAS HALF OF HIS STATEMENT. HE SAID IT FELT
14 LIKE THEY WERE WRITING ONE THING BUT DOING ANOTHER. SO TO
15 ME THE WITNESS, AND I CAN CLARIFY ON DIRECT, BUT I THOUGHT
16 COUNSEL WAS EXPLAINING, THAT EVERYTHING SHE WAS DOING
17 REALLY IS NOT WHAT SHE'S PRAISING HIM FOR. SHE'S PRAISING
18 HIM IN WRITING. SO THAT'S THE INCONSISTENCY.

19 THE COURT: OKAY. I GLEAN THAT WAS THE SITUATION.
20 MAYBE ON CROSS IT COULD BE BROUGHT OUT THAT THERE WAS
21 OTHER CIRCUMSTANCES THAT WERE NOT RELEVANT TO THIS CASE
22 THAT HE BELIEVES WERE NEGATIVE THAT WERE NOT IN THIS AND
23 THAT HE DOESN'T BELIEVE IT'S GLOWING BECAUSE IT DOESN'T
24 INCLUDE THE OTHER PARTS TO IT, EXCLUDED INVESTIGATION, OR
25 SOMETHING THAT'S NOT PART OF IT. BUT THERE HAS TO BE SOME

13:11:28

1 EXPLANATION FOR IT. I THINK YOU PROBABLY CAN GET THROUGH
2 IT IN THE FORM OF QUESTIONS, BUT IT WOULD HAVE TO COME
3 FROM YOU TO GET IT. SO WHY DON'T WE DO THAT? WHY DON'T
4 YOU JUST MOVE ON WITH THAT, AND THEN HE'LL TRY TO CLARIFY
5 THAT, AND I'LL LET YOU COME BACK IF YOU NEED TO.

6 MR. SCHAEFER: OKAY. BECAUSE THE OTHER SOLUTION
7 WOULD BE JUST TO INSTRUCT THE WITNESS TO PLEASE ONLY
8 RESPOND TO WHAT'S ACTUALLY BEFORE YOU, WHAT'S IN THERE
9 THAT YOU FEEL --

10 THE COURT: WELL, HE PROBABLY CAN SAY -- BUT WE CAN'T
11 GO UP AND TALK TO HIM. WELL, HE'D PROBABLY SAY, YEAH,
12 THIS ISN'T GOOD BUT THIS REALLY ISN'T ALL OF IT, AND I'M
13 UPSET WITH THE FACT THAT IT'S NOT ALL ON HERE, AND THAT'S
14 WHAT I'M UPSET WITH. YOU KNOW, SOMETHING LIKE THAT. BUT
15 HE WON'T DO THAT. I MEAN, IT WILL OPEN THE DOOR. I'M
16 JUST GOING TO LEAVE IT FOR YOU TO COME BACK WITH IT.

13:11:40

17 MR. VANDERPOOL: OKAY.

18 THE COURT: AND WE'LL SEE HOW IT GOES UNLESS YOU WANT
19 TO TRY TO DO THAT.

20 MR. SCHAEFER: NO, BUT I WOULD REQUEST WHEN THERE'S
21 ANOTHER OPPORTUNITY THAT HE BE TOLD SOMETHING THAT HAS
22 BEEN REDACTED AND ESPECIALLY BY THE REQUEST OF HIS LAWYER
23 THAT HE NOT COMPLAIN ABOUT THAT.

24 MR. VANDERPOOL: I'M DEFINITELY WILLING TO DO THAT
25 RIGHT NOW.

13:11:47

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: OKAY. WHY DON'T WE LET HIM DO IT RIGHT NOW.

MR. VANDERPOOL: OKAY. THANK YOU. OKAY.

(END OF SIDEBAR PROCEEDINGS.)

(PAUSE IN THE PROCEEDINGS.)

BY MR. SCHAEFER:

Q. MR. JOHNSON, GETTING BACK TO EXHIBIT 7, LET ME ASK A QUESTION A DIFFERENT WAY. FROM WHAT APPEARS IN THE EVALUATION, WHAT YOU ACTUALLY HAVE IN FRONT OF YOU, IS THERE ANYTHING THAT MRS. BEALE WROTE THAT YOU CONTEND IS NOT TRUE?

A. EVERYTHING IS TRUE IN THIS DOCUMENT.

Q. LET'S SWITCH TOPICS NOW FROM YOUR EVALUATION TO THE ISSUE OF A CHANGE OF SUPERVISORS FROM MS. BEALE TO ELENA MENDOZA. YOU WERE OFFERED A CHOICE WORKING THROUGH YOUR UNION REP, KELLY CRUZ, YOU WERE OFFERED A CHOICE TO WORK UNDER MS. MENDOZA OR WORK UNDER MR. GEORGE BIAGI; CORRECT?

A. NOT CORRECT.

Q. YOU DENY THAT?

A. IT'S NOT TRUE.

Q. DID YOUR UNION REP EVER TELL YOU THAT H.R. WAS WILLING TO ASSIGN YOU TO MR. BIAGI?

A. NO.

Q. OR FOR THAT MATTER, ANY OTHER SUPERVISOR BESIDES MS. MENDOZA?

A. NO.

13:18:52 1 Q. YOU CERTAINLY AGREE THAT JUST THE OFFER MADE TO YOU TO HAVE
2 A DIFFERENT SUPERVISOR WAS NOT IN ANY WAY PUNITIVE, WAS NOT
3 RETALIATORY?

4 A. DEPENDING ON HOW YOU SEE IT, SIR, YES AND NO. NO, IN THE
5 ASPECT OF OVERALL, BUT YES. I CAN'T GO INTO DETAIL ABOUT THAT.
6 YES.

7 Q. YES, MEANING THAT IT WAS SOMEWHAT PUNITIVE OR SOMEWHAT
8 RETALIATORY?

9 A. YES.

10 Q. AT THIS TIME, YOUR HONOR, I WOULD LIKE TO OFFER AN EXCERPT
11 OF A DEPOSITION STARTING AT PAGE 200, LINE 24, THROUGH PAGE
12 201, LINE 2.

13 MR. VANDERPOOL: NO OBJECTION.

14 MR. SCHAEFER: IF WE COULD PUBLISH THAT TO THE JURY
15 AS WELL.

13:20:01

16 (VIDEO DEPOSITION PLAYED.)

17 BY MR. SCHAEFER:

18 Q. THAT WAS YOUR TESTIMONY AT THE SAME DEPOSITION WE'VE BEEN
19 REFERRING TO?

20 A. CORRECT.

21 Q. MR. BEALE PUTTING ASIDE WHETHER OR NOT YOU OFFER HIM AS AN
22 ALTERNATIVE, YOU WILL ACKNOWLEDGE THAT AT HIS PART OF THE
23 CLERK'S OFFICE HE ALSO HAD AN IMAGING SECTION?

24 A. NO.

25 Q. YOU'RE SAYING HE DID NOT?

13:20:49

1 A. I HAD NO KNOWLEDGE THAT GEORGE BIAGI HAD AN IMAGING
2 SECTION.

3 Q. OKAY. WELL, WILL YOU ACKNOWLEDGE THAT MR. BIAGI REPORTED
4 TO A DIFFERENT DEPUTY DIRECTOR; HE DID NOT REPORT TO SHEILA
5 BEALE?

6 A. GEORGE BIAGI AT THAT TIME, AND AS I KNOW CURRENTLY, IS A
7 DEPUTY DIRECTOR OF LEGISLATIVE SERVICES UNDER THE CITY CLERK'S
8 OFFICE. THEREFORE, HE COULDN'T HAVE A SUPERVISOR AS DEPUTY
9 DIRECTOR.

10 Q. HE WASN'T REPORTING TO SHEILA BEALE?

11 A. NO.

12 Q. SO IF YOU HAD BEEN OFFERED AND HAD ACCEPTED A POSITION
13 UNDER MR. BIAGI, YOU WOULD NOT HAVE BEEN IN MS. SHEILA BEALE'S
14 CHAIN OF COMMAND IN ANY WAY?

13:21:42

15 A. CORRECT.

16 Q. OKAY. SO YOU DID THROUGH YOUR UNION REP LET H.R. KNOW THAT
17 YOU WANTED TO HAVE ELENA MENDOZA AS A NEW SUPERVISOR?

18 A. YES.

19 Q. AND IN FACT, WHEN YOUR UNION REP WAS DISCUSSING THIS WITH
20 YOU IN AN E-MAIL BACK ON JANUARY 12TH, 2016, YOU WANTED TO
21 THINK ABOUT IT?

22 A. YES.

23 Q. SO YOU HAD A CHOICE ABOUT WHETHER ELENA MENDOZA AT LEAST
24 WOULD BECOME THE NEW SUPERVISOR?

25 A. VERSUS THE LATTER, SIR.

13:22:35

1 Q. I'M SORRY? YOU WERE PRESENTED THAT OPTION?

2 A. CAN YOU REPHRASE THAT QUESTION?

3 Q. YOU WERE PRESENTED THE OPTION OF HAVING ELENA MENDOZA
4 COMING IN TO BEING YOUR IMMEDIATE SUPERVISOR AS OPPOSED TO
5 SHEILA BEALE?

6 A. YES.

7 Q. AND THAT DISCUSSION TOOK PLACE IN MID JANUARY 2016?

8 A. JANUARY 11, I BELIEVE.

9 Q. AND IT WAS ON JANUARY 12TH THAT YOU TOLD YOUR UNION REP
10 THAT YOU WANTED TO THINK ABOUT IT A LITTLE BIT MORE?

11 A. IN AND AROUND. IT'S BEEN A WHILE. SO IT WAS IN JANUARY.
12 SPECIFIC DATE.

13 Q. SINCE DATES ARE IMPORTANT, LET'S PUT ON THE SCREEN EXHIBIT
14 41 AND SEE IF THAT REFRESHES YOUR RECOLLECTION, AND WE'LL
15 HIGHLIGHT THE DATE. IS THIS THE E-MAIL CORRESPONDENCE YOU WERE

13:23:27

16 HAVING WITH MS. CRUZ ON THIS TOPIC ABOUT WHETHER ELENA WOULD BE
17 ACCEPTABLE TO YOU TO BE A DIFFERENT SUPERVISOR?

18 A. THIS E-MAIL WAS NEVER SHOWN TO ME, BUT IT REFLECTS THE TIME
19 PERIOD OF BEING NOTIFIED, 1-11-2016.

20 Q. ON THAT POINT, WAS MS. CRUZ NOT KEEPING YOU INFORMED ABOUT
21 HER E-MAIL CORRESPONDENCE WITH H.R. INCLUDING MR. SCHWABE WAS
22 NOT SHARING WITH YOU, SHARING THE E-MAIL CORRESPONDENCE?

23 A. I DON'T -- I MEAN, I DIDN'T GET ANY E-MAILS LIKE THIS.

24 Q. DID YOU, WERE YOU ASSUMING THAT SHE WAS KEEPING YOU
25 INFORMED OF WHAT WAS GOING ON?

13:24:28

1 A. I WASN'T ASSUMING ANYTHING. I WAS JUST TRYING TO GET
2 FEEDBACK.

3 Q. DID SHE EVER SHARE ANY OF THE E-MAILS THAT SHE WAS HAVING
4 WITH H.R. REGARDING A CHANGE OF SUPERVISORS OR TRANSFER TO
5 PUD?

6 A. NOT IN MY RECOLLECTION, SIR.

7 Q. OKAY. DID YOU -- ON THAT SUBJECT, DID YOU EVER AUTHORIZE
8 CITY MANAGEMENT TO TALK DIRECTLY WITH YOU ABOUT THESE ISSUES
9 RATHER THAN GO THROUGH YOUR UNION REP?

10 A. I DON'T BELIEVE THAT WAS DISCUSSED, SIR.

11 Q. SO MS. CRUZ DIDN'T BRING THAT ISSUE UP ABOUT WHETHER SHE
12 CONSENTED TO YOU TALKING DIRECTLY ABOUT THESE PERSONNEL ISSUES
13 WITH MANAGEMENT?

14 A. ALL I KNOW IS THAT SHE'S MY UNION REP AND SHE WAS ASSISTING
15 ME IN THIS, SIR.

13:25:17

16 Q. DO YOU RECALL THAT AROUND THE TIME THAT MS. MENDOZA BECAME
17 YOUR SUPERVISOR, SHE ASKED YOU WHY YOU ELECTED TO HAVE HER AS A
18 SUPERVISOR INSTEAD OF MR. BIAGI?

19 A. DON'T HAVE ANY RECOLLECTION OF THAT, SIR.

20 Q. DO YOU RECALL TELLING MS. MENDOZA, AROUND THE TIME SHE
21 BECAME YOUR NEW SUPERVISOR, THAT YOU LIKED HER BETTER THAN MR.
22 BIAGI?

23 A. I DON'T RECALL MAKING THAT STATEMENT, SIR.

24 Q. MS. MENDOZA BECAME YOUR SUPERVISOR, DID SHE NOT, ON JANUARY
25 27TH, 2016?

13:26:21

1 A. JANUARY -- NO, NO, NO, NO, NO; DID YOU SAY '17?

2 Q. JANUARY 27TH, 2016?

3 A. JANUARY 27TH, 2016, YES, SIR.

4 Q. AT 8:45 A.M.?

5 A. PRESUMABLY. IF YOU PULL SOMETHING, I CAN SEE, SIR. IT'S
6 BEEN YEARS.

7 Q. ALL RIGHT. JUST TO REFRESH RECOLLECTION BUT NOT TO
8 INTRODUCE INTO EVIDENCE, IF WE COULD SHOW HIM EXHIBIT 42, THE
9 FIRST PAGE AT THE TOP?

10 A. YES, I RECALL THIS E-MAIL.

11 Q. SO YOU MEMORIALIZED WITH YOUR UNION REP THAT AS OF 8:45
12 A.M. ON JANUARY 27TH, 2016, THAT YOU ARE NOW WORKING UNDER
13 ELENA MENDOZA?

14 A. YES, SIR.

13:27:20

15 Q. NOW IF WE COULD GO TO -- WITH THE COURT'S LEAVE, WE HAVE
16 THE ORGANIZATIONAL CHART THAT'S BEING USED FOR DEMONSTRATIVE
17 PURPOSES ONLY, EXHIBIT 156, IF WE COULD PUBLISH THAT.

18 THE COURT: ALL RIGHT. IT'S NOT AN EXHIBIT THAT
19 WOULD GO IN THE JURY ROOM. IT'S JUST FOR YOU TO OBSERVE
20 AT THIS POINT. YES, YOU CAN SEE IT. YOU CAN PUT IT UP.

21 MR. SCHAEFER: THANK YOU, YOUR HONOR.

22 BY MR. SCHAEFER:

23 Q. IS IT ACCURATE, INSOFAR AS THIS ORGANIZATIONAL CHART, THAT
24 YOU, AS OF JANUARY 27TH, 2016, WERE REPORTING TO ELENA
25 MENDOZA?

13:28:14

1 A. CORRECT.

2 Q. AND MS. MENDOZA WAS THEN REPORTING TO SHEILA BEALE?

3 A. CORRECT.

4 Q. AND IN FACT, MS. MENDOZA, SHORTLY AFTER SHE BECAME YOUR
5 DIRECT SUPERVISOR, WAS SIGNING YOUR TIME CARDS WITH THE CITY?

6 A. NO.

7 Q. ARE YOU SURE ABOUT THAT?

8 A. WELL, MY RECOLLECTION, I STILL WAS PROCESSING THE RIGHT --
9 I MEAN, THE SAME WAY.

10 Q. THE JURY MAY NOT KNOW HOW THE CITY PROCESSES TIME CARDS.
11 COULD YOU JUST TELL US HOW THAT WORKS?

12 A. CURRENTLY THE CITY OF SAN DIEGO USES S.A.P. SOFTWARE TO DO
13 TIME CARDS. THEY CHANGE FROM PAPER COPY, A LITTLE SHORT BLOCK,
14 FOR YOUR TIME CARD. TYPICALLY ON PAY PERIOD ENDING, YOU FILL
15 OUT YOUR TIME CARD, RESPECTFULLY LEAVE SLIPS FOR ANY LEAVE YOU
16 WOULD TAKE OR OVERTIME OR ANYTHING THAT HAS TO DO WITH THAT
17 TIME PERIOD OF COMPENSATION. THAT INFORMATION WOULD BE
18 PRESENTED TO YOUR SUPERVISOR UPON APPROVAL, SIGNATURE, SENT TO
19 PAYROLL.

13:29:09

20 Q. AND ARE YOU TELLING THE JURY THAT MS. BEALE WAS APPROVING
21 YOUR TIME CARDS IN SAY FEBRUARY, MARCH, AND PART OF APRIL THAT
22 YOU WORKED FOR THE CLERK'S OFFICE?

23 A. THAT'S A LOT OF DATES, SIR, BUT I -- AT THAT TIME, I DON'T
24 THINK IT WAS CHANGED.

25 Q. OKAY. WELL, YOU DID HAVE MEETINGS, DID YOU NOT, WITH MS.

13:29:49 1 MENDOZA WHERE SHE WOULD DISCUSS THINGS WHERE BEFORE MS. BEALE
2 WOULD DISCUSS WITH YOU INVOLVING SUPERVISION?

3 A. NO, SIR.

4 Q. NO? WELL, I WANT TO SWITCH TOPICS NOW TO SOME OF THE
5 TESTIMONY YOU GAVE EARLIER TODAY WHERE YOU SAID THE STATEMENTS
6 WERE MADE BY MS. BEALE TO OTHERS ABOUT YOU TO AVOID YOU; IS
7 THAT WHAT YOU SAID?

8 A. OKAY. MY FUNCTION --

9 THE COURT: WAIT A MINUTE. IF YOU COULD JUST ANSWER
10 YES OR NO, AND THEN WE CAN GO FROM THERE.

11 THE WITNESS: WILL YOU ASK THAT QUESTION AGAIN?

12 BY MR. SCHAEFER:

13 Q. IF MY RECOLLECTION IS CORRECT, YOU SAID MS. BEALE TOLD
14 OTHERS TO AVOID YOU; IS THAT CORRECT?

13:30:45 15 A. PARAPHRASING THAT.

16 Q. ALL RIGHT. SO I WANT TO DRILL DOWN ON THAT ONE THING.
17 WERE YOU PRESENT WHEN SHE SAID THAT TO ANYONE ELSE?

18 A. YES.

19 Q. AND WHAT -- WHEN DID THAT OCCUR?

20 A. ROUGHLY THE BEGINNING OF 2016.

21 Q. TO WHOM DID SHE SAY THAT TO?

22 A. RECORDS CENTER STAFF.

23 Q. WHO AMONG THE STAFF -- YOU HEARD HER SAY, AVOID MR.
24 JOHNSON, TO WHO AMONG THE STAFF?

25 A. MAY I TRY TO EXPLAIN EXACTLY WHAT WAS SAID?

13:31:21

1 Q. SURE. BUT FIRST TELL US WHO WAS THERE?

2 A. RECORDS CENTER STAFF IS TWO DEPUTY CITY CLERK ONES, THAT
3 WOULD BE CARMEN TERRELL(PHONETIC), LUZ LARIOS(PH.), STORE
4 KEEPER, CHARLES GRAYSON(PH.)

5 Q. AND EXACTLY WHAT DID SHE SAY TO THESE THREE PEOPLE THAT YOU
6 HEARD?

7 A. YOU ARE NO LONGER TO CALL OR ASK RASEAN FOR ASSISTANCE OR
8 ANYTHING TO DO WITH THE VERSATILE SYSTEM. PLEASE CONTACT THE
9 VENDOR.

10 Q. OKAY. SO SHE WAS TELLING THESE PEOPLE THAT AS FAR AS THE
11 VERSATILE SYSTEM, FUTURE CONTACT SHOULD GO TO THE VENDOR?

12 A. YES.

13 Q. ALL RIGHT. WHAT IS THE VERSATILE SYSTEM?

13:32:15

14 A. THE VERSATILE SYSTEM IS THE TRACKING OF OUR PHYSICAL
15 RECORDS IN OUR STORAGE SITE AND ALSO HAS HANDHELD DEVICES FOR
16 CHECKING IN AND OUT OF RECORDS, FILES TO BOXES, BOXES TO
17 SHELVING UNITS AND QUESTIONS ABOUT THE WORKFLOW ALWAYS COMES TO
18 ME ABOUT ANY DISCREPANCIES AND THE DATABASE OR HANDHELD
19 DEVICES.

20 Q. DID SHE SAY ANYTHING OTHER THAN AS FAR AS THE VERSATILE
21 SYSTEM IF THERE'S FUTURE QUESTIONS GO DIRECTLY TO THE VENDOR,
22 NOT MR. JOHNSON; ANYTHING ABOUT YOU OTHER THAN THAT?

23 A. IN THE PRESENCE OF THE CO-WORKERS, NO.

24 Q. OKAY. AND THIS WAS JUST THAT ONE OCCASION THAT SHE MADE A
25 REMARK TO ANOTHER PERSON THAT YOU FELT WAS DEROGATORY TOWARDS

13:33:03

1 YOU?

2 A. YES.

3 Q. OKAY. AND WHEN WAS THAT AGAIN?

4 A. IT WAS JANUARY 2016.

5 Q. DO YOU KNOW THE DAY IN JANUARY?

6 A. NO.

7 Q. NOW YOU ALSO SAID, CORRECT ME IF I'M WRONG, THAT SHE WAS
8 EXCLUDING YOU FROM MEETINGS?

9 A. YES.

10 Q. AND I WANT TO KNOW, ONE, WHICH MEETINGS, AND THEN I'LL ASK
11 YOU SOME MORE QUESTIONS. WHICH MEETINGS DID SHE EXCLUDE YOU
12 FROM?

13 A. ANY AND ALL MEETINGS THAT WERE RESULT FROM THE RECORDS
14 MANAGEMENT SYSTEMS STANDPOINT, VERSATILE ENTERPRISE, IMAGING

13:33:52

15 SECTION, SOFTWARE VENDOR MEETINGS, RECORDS PRESERVATION,
16 MEETINGS ON THE VENDOR THAT SUPPLIES OUR 16 MILLIMETER
17 MICROFILM AND ALSO SUPPORT OUR SOFTWARE. ALL THOSE ARE
18 DIFFERENT FUNCTIONS OF MY EMPLOYMENT THAT I WAS NOT THERE
19 ANYMORE.

20 Q. OKAY. LET'S TALK ABOUT THAT. RECORDS MANAGEMENT. YOU HAD
21 A MEETING IN AUGUST 2015 WITH MS. BEALE AND SABRINA TATUM I
22 THINK HER NAME IS; CORRECT?

23 A. ANALYST.

24 Q. YES. AND AT THAT MEETING IN AUGUST 2016, MS. BEALES SAID
25 THAT SHE WAS MAKING PLANS TO CHANGE THE STRUCTURE SO THAT YOU

13:34:45

1 WOULD NOT BE INVOLVED IN RECORDS MANAGEMENT; CORRECT?

2 A. I'M NOT SURE HOW IT -- CAN YOU REPEAT THAT?

3 Q. IN AUGUST 2015, THERE WAS A MEETING WHERE YOU AND MS.

4 TATUM, SHE TALKED ABOUT CHANGING THE ORGANIZATION SO YOU WOULD

5 NOT BE INVOLVED IN RECORDS MANAGEMENT?

6 A. I DON'T RECALL THAT IN THAT TIME IN 2015.

7 Q. OKAY. BUT YOU RECALL THERE WAS A MEETING ALONG THOSE LINES

8 AT SOME POINT?

9 MR. VANDERPOOL: I'M SORRY. I DIDN'T HEAR THE LAST

10 QUESTION.

11 BY MR. SCHAEFER:

12 Q. YOU RECALL THERE WAS A MEETING ALONG THOSE LINES AT SOME

13 POINT?

14 MR. VANDERPOOL: VAGUE AS TO TIME AND MOTION IN

13:35:22

15 LIMINE.

16 THE COURT: YEAH, YOU'LL HAVE TO LAY FOUNDATION

17 WITHIN THE TIMEFRAME.

18 BY MR. SCHAEFER:

19 Q. WAS THAT BEFORE YOUR GRIEVANCE, THAT MEETING?

20 A. I BELIEVE SO.

21 Q. OKAY. AND YOUR GRIEVANCE WAS SEPTEMBER 9TH, 2015;

22 CORRECT?

23 A. CORRECT.

24 Q. SO SOMETIME BEFORE YOUR GRIEVANCE OF SEPTEMBER 9, 2016,

25 THERE WAS A MEETING WHERE MS. BEALE TOLD YOU AND MS. TATUM THAT

13:35:50

1 CERTAIN THINGS, RECORDS MANAGEMENT, SUPERVISING THREE
2 EMPLOYEES, WOULD BE CHANGED?

3 A. WITH ALL DUE RESPECT, SIR, I CANNOT ANSWER THAT QUESTION.

4 Q. OKAY. DO YOU REMEMBER AFTER YOU WENT TO THE PUBLIC
5 UTILITIES DEPARTMENT IT CAME TO YOUR ATTENTION FROM ELENA
6 MENDOZA THAT THERE WAS A KEY TO A PARTICULAR DISPLAY CABINET
7 THAT WAS MISSING AND THEY WERE TRYING TO FIND IT?

8 A. NO.

9 Q. DO YOU RECALL AN OCCASION WHERE YOU WENT BACK TO THE
10 CLERK'S OFFICE, THIS IS AFTER YOU ALREADY LEFT, AND RETURNED
11 THE KEY TO MS. MENDOZA?

12 A. I DON'T RECALL, SIR.

13 Q. WELL, DO YOU REMEMBER HAVING A DISCUSSION WITH HER SHORTLY
14 AFTER YOU HAD LEFT THE CITY CLERK'S OFFICE TO GO WORK AT PUD
15 THERE AT THE CLERK'S OFFICE?

13:37:05

16 A. NO. WHEN I LEFT, I NEVER RETURNED TO RECORD'S CENTER,
17 SIR.

18 Q. DO YOU REMEMBER EVER TELLING MS. MENDOZA THAT YOU LIKED
19 YOUR NEW PUBLIC UTILITIES DEPARTMENT JOB?

20 A. I DON'T RECALL MAKING THAT STATEMENT, SIR.

21 Q. DO YOU RECALL TELLING MS. MENDOZA THAT YOUR NEW BOSS AT
22 THIS JOB, AT THE PUBLIC UTILITIES DEPARTMENT, WAS NICE?

23 A. I DON'T RECALL THAT, SIR.

24 Q. DO YOU RECALL TELLING MS. MENDOZA THAT AT THE PUBLIC
25 UTILITIES DEPARTMENT YOU LIKED HAVING YOUR OWN OFFICE?

13:37:46

1 A. I DON'T RECALL.

2 Q. DO YOU RECALL TELLING MS. MENDOZA THAT THE PACE OF WORK AT
3 THE PUBLIC UTILITIES DEPARTMENT WAS BETTER BECAUSE THERE WASN'T
4 THIS DEMAND FOR IMMEDIATE TURNAROUND ON REPORTS AND OTHER
5 THINGS?

6 A. I DON'T RECALL THAT CONVERSATION, SIR.

7 Q. DO YOU KNOW WHAT A 980 SCHEDULE IS?

8 A. WHAT WAS THAT, SIR.

9 Q. A 980 SCHEDULE, HAVE YOU HEARD THAT TERM?

10 A. NO, SIR.

11 Q. DID YOU TELL MS. MENDOZA THAT WHAT YOU LIKED ABOUT WORKING
12 AT PUD WAS THAT YOU HAD A 980 SCHEDULE VERSUS THE REGULAR FIVE
13 DAYS A WEEK FOR TEN DAYS A WEEK OR TWO WEEKS SCHEDULE?

14 A. I DON'T RECALL THAT DISCUSSION, SIR.

13:38:34

15 Q. WELL, HAVE YOU AT PUD EVER WORKED FIVE DAYS ONE WEEK AND
16 THEN FOUR DAYS THE NEXT WEEK BUT WORKING NINE HOURS A DAY?

17 A. THAT IS THE STRUCTURE THAT THEY HAVE FOR ME, SIR.

18 Q. AND YOU NEVER HEARD THAT REFERRED TO AS A 980 SCHEDULE?

19 A. NO.

20 Q. BUT THAT WASN'T THE SCHEDULE THAT YOU HAD AT THE CLERK'S
21 OFFICE?

22 A. NO.

23 Q. YOU AT THE CLERK'S OFFICE HAD TO WORK EVERY WEEK, FIVE DAYS
24 A WEEK; CORRECT?

25 A. CORRECT.

13:39:00

1 Q. UNLESS YOU'RE TAKING DAYS OFF FOR VACATION OR YOU HAD A
2 D.L. DAY OR WHATEVER?

3 A. CORRECT.

4 Q. SO AT YOUR NEW JOB, INSTEAD OF HAVING TO WORK MONDAY
5 THROUGH FRIDAY, EVERY TWO WEEKS, ONE OF THOSE TWO WEEKS YOU
6 WORK MONDAY THROUGH THURSDAY AND YOU HAVE THREE-DAY WEEKENDS;
7 IS THAT RIGHT?

8 A. SCHEDULED BUT THAT'S NOT ACTUAL.

9 Q. DO YOU NOT WORK JUST FOUR DAYS A WEEK?

10 A. I WORK FIVE TO SIX DAYS A WEEK.

11 Q. OKAY. SO HOW MANY -- FOR THE TOTAL TWO WEEKS, YOU WORK A
12 TOTAL OF NINE; CORRECT?

13 A. RESTATE THAT SIR, PLEASE.

14 Q. YOU KNOW THE CITY HAS TWO-WEEK WORK PERIODS, RIGHT?

13:39:47

15 A. CORRECT.

16 Q. AND WORKING THESE TWO-WEEK PERIODS, YOU'RE WORKING A TOTAL
17 OF NINE DAYS; CORRECT?

18 A. NO. MORE SO.

19 Q. I'M NOT TALKING ABOUT OVERTIME.

20 A. OKAY.

21 Q. PUT ASIDE OVERTIME. I'M TALKING ABOUT YOUR REGULAR HOURS,
22 NOT WHEN YOU'RE GETTING WORKED OVERTIME PAY, WORKING OVERTIME
23 AND GETTING PAID FOR THAT, BUT A REGULAR SCHEDULE WHERE YOU'RE
24 NOT WORKING OVERTIME, YOU'RE WORKING NINE DAYS A WEEK?

25 A. YES. THEY CONSIDER IT AN R.D.O. DAY.

13:40:17

1 Q. SO THE EFFECT OF THAT IS, CORRECT ME IF I'M WRONG, THAT
2 EVERY OTHER WEEK, IF YOU'RE NOT WORKING OVERTIME, YOU GET A
3 THREE-DAY WEEKEND?

4 A. PER SCHEDULE, YES.

5 Q. AND YOU DIDN'T HAVE THAT BEFORE WHEN YOU WORKED AT THE CITY
6 CLERK'S OFFICE?

7 A. CORRECT.

8 Q. BUT YOU NEVER MENTIONED THAT TO MS. MENDOZA?

9 A. I DON'T RECALL.

10 Q. OH, OKAY. WELL, LET'S TALK ABOUT YOUR TRANSFER TO THE
11 PUBLIC UTILITIES DEPARTMENT. DID I HEAR YOU SAY EARLIER THAT
12 YOU WANTED TO MAKE IT YOUR CAREER TO WORK AT THE CITY CLERK'S
13 OFFICE, THAT WAS YOUR CAREER GOAL?

14 A. MY CAREER GOAL?

13:41:09

15 Q. YES.

16 A. YES.

17 Q. IF WE COULD PUT EXHIBIT 33 PLEASE ON THE SCREEN AND GO TO
18 THE SECOND PAGE?

19 THE CLERK: YOU WANT IT TO GO TO THE JURY?

20 MR. SCHAEFER: THE JUDGE RULED IT ADMISSIBLE, YES.

21 (EXHIBIT 33 ADMITTED.)

22 BY MR. SCHAEFER:

23 Q. IF WE GO TO THE TOP HERE, THERE'S A PERSONNEL ACTION
24 REQUEST, TRANSFER REQUEST FORM; DO YOU SEE THAT?

25 A. YES.

13:41:39

1 Q. WHAT IS THAT FORM?

2 A. THAT'S A PERSONNEL ACTION REQUEST FORM, SIR; TYPICALLY
3 KNOWN IN THE CITY AS A TRANSFER LIST.

4 Q. ALL RIGHT. AND IF WE COULD GO TO THE BOTTOM PLEASE, IS IT
5 TRUE THAT WHEN YOU WERE WORKING AT THE CITY CLERK'S OFFICE BACK
6 ON MARCH 30TH, 2010, YOU COMPLETED THIS FORM?

7 A. YES.

8 Q. AND THEN IF WE CAN GO TO THE MIDDLE OF THE FORM PLEASE, AND
9 DID YOU MARK THIS BOX: I WISH TO TRANSFER IN MY PRESENT JOB TO
10 ANOTHER DEPARTMENT?

11 A. YES.

12 Q. SO BACK IN 2010, WHAT OTHER DEPARTMENTS WERE YOU WANTING TO
13 GO TO AND LEAVE THE CITY CLERK'S OFFICE?

14 A. THAT'S A CHECKMARK TO HAVE MY NAME ON THE LIST. IT'S
15 TYPICAL WITH MOST CITY EMPLOYEES.

13:42:40

16 Q. I'M NOT CONCERNED ABOUT OTHER EMPLOYEES. YOU'RE THE ONLY
17 EMPLOYEE WE'RE WORRIED ABOUT HERE.

18 A. UNDERSTOOD.

19 Q. SO YOU WANTED TO AT LEAST HAVE THE, ARE YOU SAYING, BE ON
20 THE TRANSFER LIST TO GO TO ANOTHER DEPARTMENT BECAUSE JUST TO
21 DO IT OR --

22 A. TO HAVE AN OPPORTUNITY TO PROMOTE EVEN WITHIN YOUR
23 DEPARTMENT, THIS IS NECESSARY. TO GATHER MORE EDUCATION,
24 EXPERIENCE, WITHIN THE ORGANIZATION, YOU WILL PUT OTHER
25 DEPARTMENTS TO GATHER THAT. BUT MY GOAL WAS TO HAVE A CAREER

13:43:21 1 IN THE CLERK'S OFFICE, SIR.

2 Q. OKAY. LET'S GO TO EXHIBIT 36 WHICH IS ANOTHER ONE THE
3 COURT RULED AS ADMISSIBLE. WE'LL GO TO THE BOTTOM. DID YOU
4 ALSO PUT IN THAT KIND OF REQUEST, COMPLETE A TRANSFER REQUEST
5 FORM ON AUGUST 21ST, 2013?

6 A. YES, SIR.

7 (EXHIBIT 36 ADMITTED.)

8 Q. AND JUST SO IT'S CLEAR, THERE'S AN EXPIRATION DATE. THESE
9 THINGS LAST A YEAR; CORRECT?

10 A. THAT'S CORRECT. THAT'S TRUE.

11 Q. SO WHEN YOU SIGNED THIS ONE, YOU WERE WANTING TO BE ON THE
12 LIST, OR REQUESTING TO BE ON THE LIST, SIGNING UP TO BE ON THE
13 LIST, FOR ONE YEAR STARTING AUGUST 21ST, 2013?

14 A. YES.

13:44:15 15 Q. AND THEN WE'LL GO TO THE MIDDLE. AND AGAIN, YOU WERE
16 INCLUDING IN THIS TRANSFER FORM, YOU WERE MARKING THE OPTION OF
17 TRANSFERRING IN YOUR PRESENT JOB TO ANOTHER DEPARTMENT?

18 A. CORRECT.

19 Q. SO WOULD IT BE FAIR TO SAY THAT IT WASN'T THE FIRST TIME
20 THAT YOU THOUGHT ABOUT GOING TO ANOTHER DEPARTMENT, WASN'T
21 AFTER YOUR GRIEVANCE WAS FILED?

22 A. THAT WOULDN'T BE FAIR TO SAY.

23 Q. IT WOULD BE FAIR?

24 A. IT WOULDN'T BE FAIR.

25 Q. WHY NOT? BECAUSE YOU COMPLETED THESE FORMS?

13:45:03

1 A. BECAUSE AS A CITY EMPLOYEE, AS YOU KNOW, WE ARE A HUGE
2 ORGANIZATION. TO GET PROMOTIONAL OPPORTUNITIES TO UP MY PAY
3 AND MY CLASSIFICATION, I MAY HAVE TO LEAVE MY DEPARTMENT IF I
4 AM OFFERED AN INTERVIEW. I LEFT ALL MY OPTIONS OPEN BY
5 SELECTING THAT ENTRY AND PUT MY LIST ON THE GENERAL LIST IN THE
6 CITY FOR ALL DEPARTMENTS, SIR.

7 Q. I THINK MY CO-COUNSEL SAID THERE'S OVER TEN THOUSAND
8 EMPLOYEES WITHIN THE CITY. YOU DON'T DISPUTE THAT, DO YOU?

9 A. THERE'S A LOT OF PEOPLE IN THE CITY, SIR.

10 Q. AND IN THIS ECONOMY, THERE'S A LOT OF VACANCIES IN THE
11 CITY; IS THAT RIGHT?

12 MR. VANDERPOOL: FOUNDATION. SPECULATION.

13 THE COURT: SUSTAINED.

14 BY MR. SCHAEFER:

13:45:52

15 Q. LET'S GET BACK TO WHAT WAS GOING ON WHEN YOU WERE THERE IN
16 THE CLERK'S OFFICE AND YOU HAD THIS UNION REP, KELLY CRUZ. IN
17 EARLY APRIL 2016, YOU WERE PUSHING HER, WERE YOU NOT, TO GET
18 HER TRANSFERRED?

19 A. PUSHING? I WOULDN'T CATEGORIZE AS PUSHING, SIR.

20 Q. LET'S LOOK AT EXHIBIT 43. YOU'RE STATING DOWN AT THE
21 BOTTOM OF THE E-MAIL ON TUESDAY APRIL 25TH, 2016, AT 2:02 P.M.
22 TO KELLY: ANY NEWS? DO YOU SEE THAT?

23 A. YES, SIR.

24 Q. AND SHE'S WRITING YOU BACK AT 2:11 P.M.: BOY, YOU AND I
25 ARE ON THE SAME WAVE LENGTH. NO KIDDING. I JUST SENT AN

13:47:02

1 E-MAIL TO DARRIN NOT MORE THAN FIVE MINUTES AGO ASKING FOR A
2 STATUS UPDATE ON YOUR TRANSFER. WILL KEEP YOU POSTED.

3 A. YES.

4 Q. SO YOU REALLY WERE PUSHING HER TO HAVE THIS TRANSFER TO
5 ANOTHER DEPARTMENT?

6 MR. VANDERPOOL: ARGUMENTATIVE.

7 THE COURT: SUSTAINED.

8 BY MR. SCHAEFER:

9 Q. WERE YOU PUSHING HER?

10 A. NO. I WAS INQUIRING AS OF THAT TIME PERIOD, APRIL 5, 2016.
11 I RECEIVED THINGS FROM THAT TIME, AND I WAS CONTINUOUSLY
12 RETALIATED AGAINST IN MY WORKPLACE, SIR.

13 MR. SCHAEFER: YOUR HONOR, I MOVE TO STRIKE. THAT
14 WASN'T THE QUESTION.

13:47:40

15 THE COURT: YEAH. WE'LL STRIKE THAT. JUST RESPOND
16 TO THE QUESTION PLEASE.

17 MR. SCHAEFER: ASK THE JURY TO DISREGARD.

18 THE COURT: YES. DISREGARD. THAT WAS NOT RESPONSIVE
19 TO THE QUESTION SO DISREGARD THAT STATEMENT.

20 BY MR. SCHAEFER:

21 Q. LET'S GO TO EXHIBIT 45. DID IT COME TO YOUR ATTENTION FROM
22 MS. CRUZ, LOOKING AT EXHIBIT 45, THAT MR. SCHWABE, AT THE
23 BOTTOM DOWN THERE, WANTED TO GET YOUR CURRENT RESUME AND HE
24 STATED THE REASON: THIS WILL BE HELPFUL AS WE WORK ON THE
25 PLACEMENT PROCESS? DID IT COME TO YOUR ATTENTION HE WAS

13:48:32

1 WANTING YOUR RESUME?

2 A. NO, NOT MR. SCHWABE.

3 (EXHIBIT 45 ADMITTED.)

4 Q. NO, BUT DID MS. CRUZ BRING THAT TO YOUR ATTENTION?

5 A. SHE REQUESTED A RESUME FROM ME, SIR.

6 Q. SO WHEN SHE NOTES HERE: I E-MAILED RESEAN AND REQUESTED
7 HIS RESUME. I WILL GET IT TO YOU AS SOON AS I HEAR FROM HIM;
8 THAT'S ACCURATE?

9 A. YES, AND I PROVIDED THAT.

10 Q. AND LET'S GO TO EXHIBIT 46. AND YOU MENTIONED YOU PROVIDED
11 IT, AND THAT WOULD HAVE BEEN ON THURSDAY, APRIL 14TH, YOU WROTE
12 MS. CRUZ AND PROVIDED HER YOUR RESUME?

13 A. CORRECT.

14 (EXHIBIT 46 ADMITTED.)

13:49:28

15 Q. AND IF YOU GO DOWN TO THE BOTTOM OF THAT, THAT'S BECAUSE
16 -- WELL, LET'S GO TO EXHIBIT 47. AND DO YOU HAVE ANY REASON TO
17 DOUBT THAT ON THAT SAME DAY MR. SCHWABE WAS ACKNOWLEDGING TO
18 MS. CRUZ THAT THE RESUME HAD BEEN RECEIVED?

19 A. I DIDN'T RECEIVE THIS CORRESPONDENCE, SIR.

20 (EXHIBIT 47 ADMITTED.)

21 Q. SO SHE DIDN'T KEEP YOU INFORMED OF THAT?

22 A. NOT ABOUT THIS E-MAIL.

23 MR. VANDERPOOL: VAGUE AND AMBIGUOUS AS TO "THAT."

24 BY MR. SCHAEFER:

25 Q. OF THIS PARTICULAR E-MAIL?

13:50:08

1 A. THIS PARTICULAR E-MAIL WAS NOT SENT TO ME.

2 Q. BUT IT APPEARS, AND CORRECT ME IF I'M WRONG, THAT SHE WAS
3 INVOLVING YOU IN THE DECISION ON WHERE YOU COULD GO AND HOW TO
4 GO ABOUT THAT AND GETTING YOUR RESUME, THAT THAT WAS BEING
5 REQUESTED, THOSE TYPES OF THINGS?

6 A. I WAS JUST ASKED FOR MY RESUME AT THAT TIME, AND I PROVIDED
7 IT, SIR.

8 Q. THIS WASN'T A QUESTION OF, OUT OF THE BLUE YOU WERE TOLD
9 YOU WERE GOING TO PUD, TAKE IT OR LEAVE IT?

10 A. OF COURSE NOT.

11 Q. NOW, DID YOU EXPECT YOUR UNION REP TO DO HER DUE DILIGENCE,
12 TO GIVE YOU MORE INFORMATION ABOUT THE JOB THAT SHE WAS
13 REQUESTING YOUR RESUME FOR?

14 A. MS. CRUZ DID A -- I THINK SHE DID THE BEST SHE COULD DO FOR
15 ME.

13:51:00

16 Q. DID YOU EVER THINK ABOUT, WELL, WAIT A MINUTE, LET ME GO
17 AND TALK TO WHOEVER IS IN THAT PARTICULAR DEPARTMENT THAT I'M
18 GOING TO BE WORKING UNDER AND FIND OUT MORE ABOUT WHERE I'M
19 GOING TO BE, WHAT I'M GOING TO BE DOING, WHOM I'M REPORTING TO,
20 IF I ACCEPT THE JOB?

21 A. NO, SIR.

22 Q. OKAY. THAT'S FINE. NOW WE CAN GO TO EXHIBIT 51 PLEASE.
23 YOUR LAST DAY WAS APRIL 22ND, 2016. NOW YOU'VE TALKED ABOUT
24 THIS. YOU GOT THIS E-MAIL FROM MS. MALAND WHERE SHE WAS
25 INQUIRING ABOUT HOW YOU WANTED PEOPLE TO KNOW OF YOUR LEAVE;

13:52:00

1 CORRECT?

2 A. I RECEIVED THIS E-MAIL.

3 Q. ALL RIGHT. AND THEN, WE'LL GO TO -- AND YOU TOLD HER, DID
4 YOU NOT, LET'S GO TO EXHIBIT 49, IS THIS CORRECT -- AND WE
5 COULD EXPAND WHAT MS. MALAND SAID HERE. NO, A LITTLE FURTHER
6 UP. I'M SORRY. THAT YOU INFORMED HER YOU DID NOT HAVE A
7 PREFERENCE ABOUT HOW SHE DISTRIBUTED THE NEWS TO STAFF, AND IS
8 THAT WHAT YOU TOLD HER?

9 A. I TOLD HER SHE HAD THE OPTION OR IT WAS UP TO HER HOW SHE
10 WANTED TO ALERT THE STAFF, BUT I TRIED TO BE PROFESSIONAL.

11 Q. SHE SAYS HERE: I WANTED FOLKS WHO KNOW AND LOVE RASEAN TO
12 HAVE A CHANCE TO TELL HIM AND SAY GOOD-BYE. AND SHE HAS A
13 DRAFT MESSAGE. I HOPE THE MESSAGE BELOW IS OKAY. IF WE COULD
14 LOOK AT THAT DRAFT. DO YOU TAKE QUARREL WITH ANYTHING THAT WAS
15 IN THE DRAFT MESSAGE THAT SHE INTENDED TO GO OUT TO FOLKS THAT
16 KNEW YOU THERE AT THE CLERK'S OFFICE?

13:53:43

17 A. YES, SIR.

18 Q. YOU DO?

19 A. YES, SIR.

20 Q. WHAT WOULD THAT BE?

21 A. IT SEEMED LIKE A CELEBRATION OF A FAREWELL. YOU KNOW, IT'S
22 A CONGRATULATORY E-MAIL.

23 Q. I'M SORRY?

24 A. IT WAS A CONGRATULATORY E-MAIL, AND I DIDN'T BELIEVE AT
25 THAT TIME WAS A TIME TO BE CONGRATULATING ME.

13:54:12 1 Q. DID YOU THINK IT WAS INAPPROPRIATE TO -- WELL, LET'S GO TO
2 EXHIBIT 52, THE ACTUAL E-MAIL THAT WENT OUT. IF WE GO TO THE
3 TOP, YOU RAN THIS BY -- WHEN SHE WAS REQUESTING INPUT, YOU RAN
4 THIS BY MS. MALAND; CORRECT?

5 A. I RAN THIS BY MS. MALAND.

6 Q. I'M SORRY. MS. CRUZ. IF WE CAN GO TO THE TOP OF THE
7 E-MAIL PLEASE.

8 A. YES.

9 Q. YOU SENT THIS TO MS. CRUZ ON MAY 9TH, 2016?

10 A. YES.

11 Q. AND IN FACT, THAT E-MAIL THAT WE SAW THE DRAFT OF DID GO
12 OUT TO EVERYBODY IN THE CLERK'S OFFICE?

13 A. THE ENTIRE DEPARTMENT.

14 Q. THANKING YOU FOR YOUR HARD WORK, CONGRATULATING YOU?

13:55:34 15 A. THAT'S WHAT WAS SAID OR IT WAS TYPED, YES.

16 Q. PARDON?

17 A. THAT IS WHAT WAS ON THE DOCUMENT. IT WAS TYPED.

18 Q. AND DID YOU THINK THERE WAS ANYTHING THAT WAS INAPPROPRIATE
19 ABOUT CONGRATULATING YOU?

20 A. YES.

21 Q. AND THANKING YOU FOR YOUR HARD WORK?

22 A. YES.

23 Q. NOW AS OF THE DATE OF YOUR DEPOSITION, WHICH WAS JANUARY
24 16TH, 2018, IT'S TRUE THAT YOU HAD NOT ACTUALLY APPLIED TO
25 TRANSFER OUT OF THE PUBLIC UTILITIES DIVISION; CORRECT?

13:56:24 1 A. UPON MY DEPOSITION, I BELIEVE I WAS ALREADY GONE FROM --
2 Q. NO. THE DATE YOU WERE DEPOSED, JANUARY 16TH, 2018, DO YOU
3 RECALL THAT DEPOSITION?
4 A. I RECALL BEING DEPOSED.
5 Q. AS OF THAT DATE, YOU AT THAT POINT HAD NOT APPLIED TO
6 TRANSFER OUT OF THE PUBLIC UTILITIES DIVISION?
7 A. I NEVER APPLIED TO TRANSFER TO THE PUBLIC UTILITIES
8 DEPARTMENT.
9 Q. OUT OF. OUT OF. OUT OF.
10 A. UPON THE DEPOSITION, I WAS IN CHOLLAS.
11 Q. WHICH IS PART OF THE PUBLIC UTILITIES DEPARTMENT;
12 CORRECT?
13 A. YES, SIR.
14 Q. SO ON JANUARY 16TH, 2018, YOU WERE DEPOSEDE; CORRECT?
13:57:08 15 A. YES.
16 Q. AS OF THAT DATE, YOU WERE STILL WORKING FOR THE PUBLIC
17 UTILITIES DEPARTMENT?
18 A. YES.
19 Q. AND AS OF THAT DATE, YOU HAD NOT APPLIED TO GO WORK AT
20 ANOTHER DEPARTMENT BESIDES PUD?
21 A. I WAS ON THE TRANSFER LIST, AND I RECEIVED AN INVITATION,
22 SIR, AND I RESPONDED.
23 Q. YOU ACTUALLY APPLIED?
24 A. I WAS INVITED, SIR, AND I RESPONDED.
25 Q. BUT DID YOU APPLY?

13:57:37 1 A. I PUT MY NAME IN FOR CONSIDERATION, SIR.

2 Q. YOUR HONOR, AT THIS TIME I REQUEST LEAVE TO PUBLISH TO THE
3 JURY AN EXCERPT OF MR. JOHNSON'S DEPOSITION, PAGE 300, LINES
4 ONE THROUGH FOUR AS WELL AS LINES 20 THROUGH 23. I'M SORRY.
5 IT'S NUMBER NINE. I GOT THE PAGE WRONG. PAGE 302, LINES SIX
6 THROUGH 8.

7 MR. VANDERPOOL: 202?

8 MR. SCHAEFER: 302.

9 MR. VANDERPOOL: NO OBJECTION.

10 THE COURT: OKAY.

11 (VIDEO DEPOSITION PLAYED.)

12 BY MR. SCHAEFER:

13 Q. IS THAT CORRECT?

14 A. THAT'S CORRECT.

13:59:09 15 Q. YOU HADN'T TRIED TO LEAVE CHOLLAS YARD?

16 A. I RESPOND TO INVITATIONS.

17 Q. DID I HEAR YOU CORRECTLY EARLIER IN THE, ABOUT WHETHER TO
18 GO TO PUD WAS NOT YOUR CHOICE BUT WAS THE CITY'S CHOICE?
19 DIDN'T YOU SAY IT WAS THE CITY'S CHOICE, NOT YOURS, TO GO TO
20 PUD?

21 A. I BELIEVE I HAD TO DECIDE BETWEEN TWO BAD OPTIONS, SIR.

22 Q. AND YOU DID HAVE A CHOICE, CORRECT, TO STAY WITHIN THE CITY
23 CLERK'S DEPARTMENT?

24 A. I HAD NO CHOICE OTHER THAN TO CONTINUE THAT ENVIRONMENT OR
25 AN UNKNOWN ENVIRONMENT, SIR.

13:59:59 1 Q. SO THE ANSWER WOULD BE, YES, YOU HAD A CHOICE TO STAY
2 WITHIN THE CITY CLERK'S OFFICE?

3 A. YES.

4 Q. YOU WERE OFFERED THAT?

5 A. NO.

6 Q. YOUR UNION REP TOLD YOU YOU CAN STAY IN THE CITY CLERK'S
7 OFFICE OR YOU CAN ACCEPT THIS POSITION THAT THEY HAVE AT THE
8 PUBLIC UTILITIES DEPARTMENT?

9 A. DEPENDING ON THE TIME, NO.

10 Q. OKAY. THIS WILL BE THE LAST EXCERPT I'D LIKE TO PUBLISH,
11 YOUR HONOR, AND THAT WOULD BE PAGE 272, LINES 18 THROUGH 21.

12 MR. VANDERPOOL: NO OBJECTION.

13 THE COURT: OKAY. YOU MAY PUBLISH.

14 (VIDEO DEPOSITION PLAYED.)

14:01:26 15 MR. SCHAEFER: I HAVE NO OTHER QUESTIONS, YOUR
16 HONOR.

17 THE COURT: OKAY.

18 MR. VANDERPOOL: REDIRECT, THANK YOU, YOUR HONOR.

19 THE COURT: ALL RIGHT.

20 REDIRECT EXAMINATION

21 BY MR. VANDERPOOL:

22 Q. COUNSEL IS QUESTIONING YOU ABOUT BEING ON A TRANSFER LIST
23 VERSUS APPLYING. IN YOUR DEPOSITION, DID COUNSEL, THAT HE
24 DIDN'T PLAY, FURTHER ASK YOU THAT QUESTION AGAIN?

25 "QUESTION: SO HAVE YOU APPLIED FOR TRANSFER TO GO

14:02:10 1 | SOMEWHERE ELSE OTHER THAN THE CHOLLAS YARD? PAGE 302, YOUR
2 | HONOR, LINE 18.

3 | ANSWER: UNDER MY PURVIEW, YOU DON'T REQUEST
4 | TRANSFERS. YOU REQUEST YOUR NAME TO BE ADDED ON TO THE
5 | AVAILABLE LIST FOR AN EQUIVALENT CLASSIFICATION OR HIGHER.

6 | QUESTION: HAVE YOU DONE THAT?

7 | ANSWER: MY NAME IS ON THE ADMIN AIDE TWO LIST AND
8 | ALSO THE ANALYST SERIES.

9 | QUESTION: OKAY. WHEN DID YOU GET YOUR NAME ON THAT
10 | LIST?

11 | ANSWER: I CONTINUALLY UPDATE MY STATUS BECAUSE IT
12 | ONLY LASTS FOR I BELIEVE A YEAR.

13 | QUESTION: WHEN DID YOU FIRST PUT YOUR NAME ON THE
14 | LIST?

14:02:45 15 | AS AN ADMIN AIDE TWO, I THINK I STARTED WHEN I WAS
16 | ADMIN AIDE ONE.

17 | QUESTION: SO YOUR NAME HAS BEEN ON THAT LIST SINCE
18 | BEFORE YOU WENT TO CHOLLAS?

19 | YES, MA'AM."

20 | SIR, DID YOU INTERVIEW IN RESPONSE TO INVITES FOR
21 | OTHER POSITIONS IN THE CITY AFTER BEING TRANSFERRED TO PUD?

22 | A. YES.

23 | Q. MR. JOHNSON, DID YOU RECEIVE ANY COMMENDATIONS,
24 | RECOMMENDATIONS FOR EMPLOYEE OF THE QUARTER, MERIT INCREASES,
25 | PROMOTIONS, ANYTHING POSITIVE FROM MS. BEALE AFTER YOUR

14:03:26 1 COMPLAINT IN SEPTEMBER 2015 BEFORE YOUR APRIL 7, 2016,
2 REVIEW?

3 A. I DON'T BELIEVE SO, NO, SIR.

4 Q. NOW YOU SAID ABOUT THAT REVIEW -- WE DON'T HAVE TO PULL IT
5 UP AGAIN; I'M TALKING ABOUT THE CONTENT OF THE REVIEW ITSELF --
6 THAT YOU CONSIDERED IT, AS COUNSEL SEIZED UPON, A SLAP IN THE
7 FACE. WHY DO YOU FEEL THAT A REVIEW THAT'S THAT POSITIVE IS A
8 SLAP IN THE FACE?

9 A. BECAUSE IT COVERS THE REALITY AND ONLY FOCUSES ON POSITIVE
10 THINGS I'VE DONE AND NOT ANYTHING ELSE.

11 Q. YOU MEAN POSITIVE THINGS BEFORE YOUR COMPLAINT WAS FILED IN
12 SEPTEMBER 2015?

13 A. YES, SIR.

14 MR. SCHAEFER: OBJECTION, YOUR HONOR. LEADING.

14:04:08 15 THE COURT: I'M SORRY. WHAT WAS THE?

16 MR. SCHAEFER: LEADING QUESTION.

17 THE COURT: OVERRULED.

18 THE WITNESS: YES, SIR.

19 BY MR. VANDERPOOL:

20 Q. IT FOCUSED ON THAT LIMITED TIMEFRAME?

21 A. THAT LIMITED TIMEFRAME.

22 Q. THAT'S WHY IT WAS IN -- I'LL WITHDRAW. DOES COUNSEL
23 SPENDING A HALF HOUR REMINDING YOU OF ALL YOUR COMMENDATIONS,
24 POSITIVE REVIEWS, MERIT INCREASES, DISCRETIONARY LEAVE, DOES
25 THAT MAKE YOU FEEL BETTER OR WORSE ABOUT ONLY GIVEN TWO CHOICES

14:04:35 1 TO TRANSFER OR STAY IN THAT DEPARTMENT?

2 A. WORSE, SIR.

3 Q. WHY?

4 A. BECAUSE I THINK I DESERVE BETTER, SIR.

5 Q. COUNSEL WAS ASKING YOU ABOUT SOME CONVERSATION OR

6 CONVERSATIONS YOU HAD WITH MS. MENDOZA. DID YOU STAY IN

7 CONTACT WITH MS. MENDOZA AT ALL AFTER TRANSFERRING FROM THE

8 CLERK'S OFFICE?

9 A. I MIGHT HAVE. I JUST DON'T RECALL CONVERSATIONS.

10 Q. OKAY. LASTLY, SIR, AT ANY TIME AFTER YOUR TRANSFER OR

11 BEFORE DID YOU SEEK ANY EMPLOYEE ASSISTANCE COUNSELING ABOUT

12 YOUR SITUATION?

13 MR. SCHAEFER: OBJECTION, YOUR HONOR. OUTSIDE THE

14 SCOPE OF CROSS.

14:05:24 15 THE COURT: I THINK IT FALLS WITHIN THE CONTEXT OF

16 THE TESTIMONY. I'LL ALLOW IT.

17 THE WITNESS: YES, SIR.

18 BY MR. VANDERPOOL:

19 Q. WHY DID YOU SEEK SOME TYPE OF EMPLOYEE ASSISTANCE?

20 A. BECAUSE IT GOT SO HARD IN MY WORKPLACE, I SEEKED ANY AVENUE

21 FOR HELP WITHIN MY ORGANIZATION. I TRUSTED THE SYSTEM.

22 Q. WHO WAS THE PERSON, WOMAN, NAME OF THE PERSON YOU MET

23 WITH?

24 A. SHE'S RETIRED NOW BUT SHE -- I DON'T KNOW IF SHE'S A

25 COUNSELOR, BUT SHE'S A CITY EMPLOYEE THAT SPEAKS TO CITY

14:06:01 1 EMPLOYEES THAT HAVE ISSUES IN OR OUT THE WORKPLACE, SIR.

2 Q. DID YOU FIND THAT TALKING WITH HER ABOUT YOUR SITUATION
3 HELPED?

4 A. YES.

5 Q. THAT'S ALL.

6 MR. SCHAEFER: IF I CAN HAVE ONE MOMENT, YOUR HONOR?

7 THE COURT: YES.

8 RECROSS-EXAMINATION

9 BY MR. SCHAEFER:

10 Q. MR. JOHNSON, ARE YOU TELLING THE LADIES AND GENTLEMEN OF
11 THE JURY THAT YOU WOULD HAVE PREFERRED THAT MS. BEALE PUT
12 NEGATIVE THINGS IN YOUR EVALUATION?

13 A. NO, SIR.

14 Q. OKAY. NO OTHER QUESTIONS, YOUR HONOR.

14:06:53 15 THE COURT: ALL RIGHT. THANK YOU. MAY THE WITNESS
16 BE EXCUSED -- WELL, HE WON'T BE EXCUSED, BUT MAY HE STEP
17 DOWN?

18 MR. VANDERPOOL: NO FURTHER QUESTIONS. HE MAY STEP
19 DOWN.

20 THE COURT: OKAY. YOU MAY STEP DOWN, SIR.

21 THE WITNESS: THANK YOU, SIR.

22 THE COURT: ALL RIGHT. WE'LL TAKE ABOUT A TEN-MINUTE
23 BREAK. TRY TO KEEP IT TO TEN MINUTES SO WE CAN KEEP IT GOING.
24 LEAVE YOUR PADS HERE.

25 (RECESS.)

14:25:10

1

THE COURT: ALL RIGHT.

2

MR. CADIEUX: YOUR HONOR, PLAINTIFF WOULD CALL AS AN

3

ADVERSE WITNESS, DEPUTY DIRECTOR SHEILA BEALE.

4

(OATH ADMINISTERED.)

5

THE CLERK: PLEASE BE SEATED. PLEASE STATE YOUR

6

FIRST AND LAST NAME AND SPELL IT FOR THE RECORD?

7

THE WITNESS: SHEILA BEALE. FIRST NAME IS SHEILA,

8

S-H-E-I-L-A. LAST NAME IS SPELLED B-E-A-L-E.

9

DIRECT EXAMINATION

10

BY MR. CADIEUX:

11

Q. THANK YOU. GOOD AFTERNOON, MS. BEALE.

12

A. GOOD AFTERNOON, SIR.

13

Q. MS. BEALE, YOU'RE CURRENTLY DEPUTY DIRECTOR WITH THE CITY

14

OF SAN DIEGO; IS THAT CORRECT?

14:26:45

15

A. YES, I AM, SIR.

16

Q. AND YOU'VE BEEN EMPLOYED BY THE CITY FOR APPROXIMATELY 28

17

OR 29 YEARS?

18

A. 32 YEARS.

19

Q. MY APOLOGIES, CONGRATULATIONS ON A LONG TIME. WHEN DID YOU

20

BECOME DEPUTY DIRECTOR?

21

A. I BECAME DEPUTY DIRECTOR IN JULY OF 2011.

22

Q. AND AS DEPUTY DIRECTOR, WELL LET ME BACK UP, WHICH

23

DEPARTMENT ARE YOU CURRENTLY DEPUTY DIRECTOR OF?

24

A. I'M DEPUTY DIRECTOR OF THE ARCHIVE AND RECORDS MANAGEMENT

25

DIVISION OF THE CITY CLERK'S OFFICE.

14:27:19 1 Q. IN YOUR 32-SOME YEARS WITH THE CITY, HAVE YOU ALWAYS WORKED
2 IN THE CITY CLERK'S OFFICE?

3 A. NO, SIR, I HAVE NOT.

4 Q. HOW LONG HAVE YOU BEEN IN THE CITY CLERK'S OFFICE?

5 A. APPROXIMATELY 15 YEARS.

6 Q. GREAT. WHEN YOU BECAME DEPUTY DIRECTOR IN 2011, THAT WAS
7 IN YOUR CURRENT DEPARTMENT UNDER THE CITY CLERK; CORRECT?

8 A. SAY THAT AGAIN, SIR.

9 Q. WHEN YOU BECAME DEPUTY DIRECTOR IN 2011, YOU WERE WITH THE
10 CITY CLERK'S OFFICE AT THAT TIME?

11 A. YES, SIR.

12 Q. AND AMONG YOUR RESPONSIBILITIES WAS OVERSEEING THE RECORDS
13 DIVISION OF THE CLERK'S OFFICE?

14 A. YES, SIR.

14:27:56 15 Q. YOU REPORTED DIRECTLY TO THE CITY CLERK, ELIZABETH MALAND,
16 AFTER BECOMING DEPUTY DIRECTOR; IS THAT RIGHT?

17 A. YES, THAT'S RIGHT.

18 Q. IS SHE CURRENTLY YOUR SUPERVISOR?

19 A. YES, SHE IS.

20 Q. PRIOR TO BECOMING DEPUTY DIRECTOR, DID YOU RECEIVE
21 SPECIALIZED TRAINING FROM THE CITY IN HOW TO BE AN EFFECTIVE
22 SUPERVISOR?

23 A. YES. THE CITY OF SAN DIEGO HAS A SUPERVISOR'S ACADEMY THAT
24 IS REQUIRED, AND EVERYONE THAT'S IN A SUPERVISORY ROLE HAS TO
25 TAKE THAT COURSE.

14:28:33 1 Q. AS PART OF THAT SUPERVISOR'S ACADEMY, THEY COVER THE CITY'S
2 EQUAL EMPLOYMENT OPPORTUNITY POLICY; CORRECT?

3 A. I BELIEVE THEY DO.

4 Q. AFTER BECOMING DEPUTY DIRECTOR, DID YOU ATTEND A SECOND
5 ACADEMY DESIGNED TO HELP IMPROVE YOUR MANAGEMENT SKILLS?

6 A. YES, SIR, I DID.

7 Q. THAT'S REFERRED TO AS THE MANAGEMENT ACADEMY?

8 A. YES, SIR.

9 Q. IN THAT MANAGEMENT ACADEMY, THEY ALSO COVERED EQUAL
10 EMPLOYMENT OPPORTUNITY POLICIES; CORRECT?

11 A. SOME. THEY DON'T GO IN FULL DEPTH.

12 Q. OKAY. WHEN DID YOU ATTEND THAT MANAGEMENT ACADEMY?

13 A. I ATTENDED THAT MANAGEMENT ACADEMY IN MARCH OF 2015.

14 Q. MARCH OF 2015. OKAY. OTHER THAN THE SUPERVISOR AND

14:29:21 15 MANAGEMENT ACADEMY, DO YOU ALSO RECEIVE TRAININGS ON THE CITY'S
16 EQUAL EMPLOYMENT OPPORTUNITY POLICY?

17 A. WELL, THERE IS AN EEO ANNUAL POLICY THAT COMES OUT TO ALL
18 CITY EMPLOYEES AT THE BEGINNING OF EVERY FISCAL YEAR AND THEN
19 EVERY TWO YEARS, I BELIEVE IT IS, WE RECEIVE SEXUAL HARASSMENT
20 TRAINING.

21 Q. OKAY. AFTER BECOMING DEPUTY DIRECTOR IN 2011, YOU WERE
22 RASEAN JOHNSON'S DIRECT SUPERVISOR; CORRECT?

23 A. YES, I WAS, SIR.

24 Q. NOW SOMETIME DURING THE 2012 OR 2013 TIMEFRAME, DID MR.
25 JOHNSON REPORT TO SABRINA TATUM INSTEAD OF YOU?

14:30:06

1 A. YES, SIR, HE DID.

2 Q. APPROXIMATELY HOW LONG DID HE REPORT TO SABRINA TATUM
3 INSTEAD OF YOU?

4 A. APPROXIMATELY A YEAR I WOULD SAY.

5 Q. DURING THE TIME YOU WERE MR. JOHNSON'S SUPERVISOR, YOU WERE
6 RESPONSIBLE FOR PERFORMING HIS PERFORMANCE EVALUATIONS
7 ANNUALLY; CORRECT?

8 A. YES, I WAS, SIR.

9 Q. WHILE MR. JOHNSON WAS REPORTING TO SABRINA TATUM, MS. TATUM
10 DID THAT JOB; CORRECT?

11 A. YES, SIR.

12 Q. WHEN WAS THE LAST -- EXCUSE ME, LET ME BACK UP. AFTER THE
13 YEAR HE REPORTED TO MS. TATUM, MR. JOHNSON WAS THEN BACK UNDER
14 YOUR SUPERVISION; IS THAT RIGHT?

14:30:46

15 A. YES, SIR.

16 Q. AND SO AFTER THAT SWITCH BACK, YOU STARTED DOING HIS
17 PERFORMANCE EVALUATIONS AGAIN?

18 A. YES, SIR.

19 Q. WHEN IS THE LAST PERFORMANCE EVALUATION YOU GAVE TO MR.
20 JOHNSON?

21 A. IT WAS THE LAST ONE RIGHT BEFORE HE LEFT THE DEPARTMENT.

22 Q. LET ME SHOW YOU EXHIBIT 7. AND IF WE COULD PUBLISH THIS.
23 LET'S LOOK AT THE DATE UP AT THE TOP. THIS IS THE REPORT
24 PERIOD 4-10-15 TO 4-9-16. IS THIS THE LAST PERFORMANCE
25 EVALUATION YOU RECALL GIVING MR. JOHNSON?

14:31:30

1 A. YES, SIR.

2 Q. OKAY. LET'S GO TO THE NEXT PAGE. THIS IS THE CONTENT OF
3 THAT PERFORMANCE EVALUATION, MS. BEALE?

4 A. YES, I BELIEVE IT IS.

5 Q. HOW MUCH OF THIS EVALUATION WAS WRITTEN BY MS. MALAND?

6 A. EXCUSE ME, SIR. I DON'T UNDERSTAND THE QUESTION.

7 Q. DID MS. MALAND WRITE THIS PERFORMANCE EVALUATION FOR MR.
8 JOHNSON?

9 A. NO, SIR.

10 Q. DID SHE WRITE ANY OF IT?

11 A. NO, SIR.

12 Q. DID SHE TELL YOU WHAT TO WRITE?

13 A. NO, SIR.

14 Q. DID YOU TALK TO HER ABOUT WHAT YOU WOULD WRITE IN THIS
15 EVALUATION BEFORE YOU WROTE IT?

14:32:08

16 A. NO, SIR.

17 Q. YOU TALKED ABOUT WHAT WAS IN THIS EVALUATION BEFORE YOU
18 GAVE IT TO MR. JOHNSON THOUGH, CORRECT?

19 A. I'M NOT UNDERSTANDING YOUR QUESTION, SIR.

20 Q. DID YOU SPEAK WITH MS. MALAND ABOUT THE CONTENT OF THIS
21 APRIL 2016 PERFORMANCE EVALUATION PRIOR TO GIVING IT TO MR.
22 JOHNSON?

23 A. NO, SIR.

24 Q. LET'S GO TO PAGE THREE. WHEN DID YOU WRITE THIS
25 PERFORMANCE EVALUATION, MS. BEALE?

14:32:50 1 A. WELL, IT IS DATED 4-20-2016.
2 Q. IS THAT WHEN YOU WROTE IT?
3 A. IT MUST HAVE BEEN IF THAT'S THE DATE, SIR.
4 Q. OKAY. MR. JOHNSON SIGNED IT ON 4-15-2016. DO YOU SEE
5 THAT?
6 A. YES, SIR.
7 Q. DID YOU GIVE THIS TO MR. JOHNSON ON 4-15-2016?
8 A. I DID NOT. I GAVE IT TO ELENA MENDOZA WHO WAS SUPERVISING
9 HIM AT THE TIME.
10 Q. SO YOU DIDN'T SIT DOWN WITH MR. JOHNSON AND GO OVER THIS
11 PERFORMANCE EVALUATION WITH HIM?
12 A. NO, SIR.
13 Q. OKAY. EVEN THOUGH YOU'RE LISTED AS HIS SUPERVISOR HERE;
14 CORRECT?
14:33:29 15 A. YES, BECAUSE I WAS DURING THE LARGER PORTION OF THIS
16 EVALUATION PERIOD.
17 Q. MS. MENDOZA PURPORTEDLY BECAME MR. JOHNSON'S SUPERVISOR
18 WHEN, TO YOUR RECOLLECTION?
19 A. IN JANUARY OF 2016.
20 Q. OKAY. SO FOR THE FIRST QUARTER, SO FOR ONE FOURTH OF THE
21 EVALUATION PERIOD, YOU WERE NOT MR. JOHNSON'S SUPERVISOR,
22 RIGHT?
23 A. FOR 8 MONTHS I WAS HIS SUPERVISOR.
24 Q. OKAY. THANKS FOR CORRECTING MY MATH. YOU CAN TELL THAT'S
25 NOT MY STRONG SUIT. IT'S A THIRD NOT A FOURTH. THANKS. NOW

14:34:15 1 WHEN YOU SIGNED THIS PERFORMANCE EVALUATION ON APRIL 20, 2016,
2 YOU WERE ALREADY AWARE THAT MR. JOHNSON WAS TRANSFERRING;
3 CORRECT?

4 A. YES.

5 Q. AND WHEN YOU WROTE IT SOMETIME BEFORE THAT DATE, YOU WERE
6 AWARE MR. JOHNSON WAS TRANSFERRING; CORRECT?

7 A. I'M SORRY. I'M JUST TRYING TO RECOLLECT FOR A MINUTE.

8 Q. TAKE YOUR TIME.

9 A. SURE. NO, I DON'T THINK I FOUND OUT MR. JOHNSON WAS
10 LEAVING UNTIL APRIL. IS THAT WHAT YOU'RE ASKING?

11 Q. IS IT YOUR TESTIMONY THAT YOU PREPARED THIS PERFORMANCE
12 EVALUATION SOMETIME PRIOR TO APRIL?

13 A. I WOULD HAVE DONE IT IN APRIL.

14 Q. OKAY. SO AT THE TIME YOU WROTE THIS IN APRIL, YOU WERE
14:35:15 15 AWARE THAT MR. JOHNSON WAS GOING TO BE TRANSFERRING OUT OF YOUR
16 DEPARTMENT; CORRECT?

17 A. YES.

18 Q. THAT'S SOMETHING MS. MALAND HAD TOLD YOU, RIGHT?

19 A. YES, SIR.

20 Q. SPEAKING OF MS. MALAND, IF YOU LOOK RIGHT ABOVE YOUR
21 SIGNATURE ON EXHIBIT 7, IS THAT HER NAME?

22 A. YES, SIR, IT IS.

23 Q. AND SHE SIGNED THIS ON APRIL 7TH; CORRECT?

24 A. YES, SIR.

25 Q. AND SHE SIGNED ON A LINE LABELED "REVIEWED BY." WHAT DID

14:35:42 1 YOU UNDERSTAND THAT TO MEAN?

2 A. THAT MEANS THAT WHEN I WRITE THE EVALUATION UP, IT GOES TO
3 HER FOR REVIEW. THIS IS COMMON WITH ALL PERFORMANCE
4 EVALUATIONS.

5 Q. SO MS. MALAND DID REVIEW THIS PERFORMANCE EVALUATION PRIOR
6 TO YOU GIVING IT TO MR. JOHNSON; CORRECT?

7 A. YES.

8 Q. BUT YOUR TESTIMONY IS THAT AFTER HER REVIEW ON APRIL 7TH,
9 SHE DID NOT MAKE ANY CHANGES AND SHE DID NOT SPEAK TO YOU ABOUT
10 THE CONTENTS OF THIS EVALUATION; IS THAT RIGHT?

11 A. NO, SHE DID NOT.

12 Q. SHE DID NOT. WHEN DID YOU FIND OUT THAT SHE HAD REVIEWED
13 AND APPROVED IT?

14 A. I COULDN'T TELL YOU THE EXACT DATE OR TIME. SHE USUALLY

14:36:32 15 JUST SENDS ME AN E-MAIL WITH ALL THE PERFORMANCE EVALUATIONS
16 AND JUST SAYS YOU CAN PICK UP THE PERFORMANCE EVALUATIONS IN MY
17 OUTBOX.

18 Q. OKAY. WHY DIDN'T YOU SIGN IT UNTIL APRIL 20TH?

19 A. SOMETIMES THERE'S JUST DELAYS IN THINGS GETTING SIGNED.
20 ELENA MAY NOT HAVE GIVEN IT BACK TO ME RIGHT AWAY.

21 Q. DID YOU SPEAK TO ANYONE IN THE CITY'S H.R. DEPARTMENT ABOUT
22 WHAT TO WRITE IN MR. JOHNSON'S PERFORMANCE EVALUATION?

23 A. NO, SIR, I DIDN'T.

24 Q. DO YOU KNOW WHETHER THE HUMAN RESOURCES DEPARTMENT RECEIVED
25 A COPY OF THIS AND REVIEWED IT FROM MS. MALAND?

14:37:14

1 A. NOT THAT I KNOW OF.

2 Q. OKAY. AT ANY POINT DID YOU SPEAK TO ANYONE FROM H.R. ABOUT
3 MR. JOHNSON IN OR AROUND THIS APRIL TIME PERIOD?

4 A. NO, SIR.

5 Q. WHEN YOU BECAME MR. JOHNSON'S SUPERVISOR, AGAIN AFTER HE
6 SWITCHED BACK FROM REPORTING TO MS. TATUM, THIS WAS AROUND THE
7 SAME TIME THAT HE WAS PROMOTED TO ADMINISTRATIVE AIDE TWO
8 POSITION; IS THAT RIGHT?

9 A. YES.

10 Q. AND YOU HELPED HIM GET THAT PROMOTION; IS THAT TRUE?

11 A. I DID, SIR.

12 Q. YOU RECOMMENDED THAT HE BE PROMOTED TO THAT?

13 A. YES, I DID, SIR.

14 Q. AND HE ALSO BECAME SUPERVISOR OF THE IMAGING SECTION AROUND
15 THAT TIME IN 2013; CORRECT?

14:38:09

16 A. NO, SIR. HE WAS ALREADY THE IMAGING SUPERVISOR.

17 Q. OKAY. SO EVEN PRIOR TO BECOMING ADMIN AIDE TWO HE HAD THAT
18 IMAGING SECTION SUPERVISOR POSITION?

19 A. YES, SIR.

20 Q. AND THAT INCLUDED SUPERVISION OF OTHER EMPLOYEES;
21 CORRECT?

22 A. YES.

23 Q. IN SEPTEMBER 2015, WAS RASEAN JOHNSON STILL THE IMAGING
24 SECTION SUPERVISOR?

25 A. YES, HE WAS.

14:38:40 1 Q. WHO WERE THE EMPLOYEES THAT HE SUPERVISED IN THAT SEPTEMBER
2 2015 TIMEFRAME?

3 A. HE SUPERVISED TWO DCC ONES.

4 Q. I'M SORRY. JUST SO I'M CLEAR, I'M TERRIBLE WITH ACRONYMS,
5 WHAT DOES DCC --

6 A. DEPUTY CITY CLERK ONE.

7 Q. THANK YOU. DID MR. JOHNSON CONTINUE TO SUPERVISE THOSE
8 DEPUTY CITY CLERKS UNTIL HE WAS TRANSFERRED TO THE PUBLIC
9 UTILITIES DEPARTMENT IN APRIL 2016?

10 A. IN THE IMAGING SECTION, YES, HE DID.

11 Q. AND HE CONTINUED TO SUPERVISE THE IMAGING SECTION UNTIL
12 APRIL OF 2016?

13 A. YES, HE DID, SIR.

14 Q. LET ME BACK UP. WE TALKED A LITTLE BIT ABOUT THE EEO

14:39:27 15 POLICY FROM THE CITY. YOU MENTIONED THAT YOU RECEIVED AT LEAST
16 SOME TRAINING ABOUT THOSE POLICIES?

17 A. YES, SIR.

18 Q. AND IN FACT, YOU GET A COPY OF THAT POLICY SENT TO YOU
19 EVERY YEAR, RIGHT?

20 A. SENT TO ALL CITY EMPLOYEES.

21 Q. BASED UPON THOSE TRAININGS, AND THE ANNUAL NOTICE YOU GET,
22 WHAT'S YOUR UNDERSTANDING OF THAT POLICY?

23 A. IT BASICALLY TALKS ABOUT PROTECTIVE CLASSES AND IT TALKS
24 ABOUT THAT -- IT BASICALLY DESCRIBES A PROTECTED CLASS AND THAT
25 THERE SHOULD BE NO DISCRIMINATION AGAINST THEM.

14:40:09 1 Q. DID YOU ALSO UNDERSTAND THAT THAT EEO POLICY PROHIBITED
2 RETALIATING AGAINST AN EMPLOYEE FOR MAKING A PROTECTED
3 COMPLAINT?

4 A. YES, SIR, I DID.

5 Q. AND DID YOU ALSO UNDERSTAND THAT UNDER THAT POLICY, TAKING
6 AWAY SOMEONE'S JOB DUTIES OR TITLE BECAUSE THEY MADE A
7 COMPLAINT AGAINST YOU WOULD CONSTITUTE RETALIATION?

8 A. YES, SIR, I UNDERSTOOD THAT.

9 Q. YOU'RE AWARE THAT MR. JOHNSON FILED A GRIEVANCE AGAINST
10 YOU, RIGHT?

11 A. YES, SIR.

12 Q. WHEN DID YOU FIRST FIND OUT THAT MR. JOHNSON HAD FILED THAT
13 COMPLAINT?

14 A. I FIRST FOUND OUT IN OCTOBER OF 2015.

14:40:48 15 Q. HOW DID YOU FIND OUT?

16 A. I WAS TOLD BY H.R.

17 Q. DO YOU RECALL WHO SPECIFICALLY IN H.R.?

18 A. YES, IT WAS A GENTLEMAN BY THE NAME OF JOHN O'NEIL.

19 Q. YOU WERE ALSO INTERVIEWED BY A PANEL OF CITY EMPLOYEES AS
20 PART OF THE INVESTIGATION INTO THAT GRIEVANCE; IS THAT RIGHT?

21 A. YES, SIR.

22 Q. HOW MANY TIMES WERE YOU INTERVIEWED DURING THAT
23 INVESTIGATION PROCESS?

24 A. ONE TIME.

25 Q. APPROXIMATELY WHEN WAS THAT?

14:41:29

1 A. SOMETIME IN -- I DON'T EXACTLY RECALL THE DATE.

2 Q. SURE. IF I SAID IT WAS OCTOBER, NOVEMBER OF 2015, WOULD
3 YOU AGREE WITH THAT?

4 A. YES.

5 Q. DURING THAT INTERVIEW THAT YOU GAVE TO THE CITY, DID ANY OF
6 THEM TELL YOU: DON'T RETALIATE AGAINST RASEAN JOHNSON FOR
7 MAKING THIS COMPLAINT?

8 A. NO, SIR.

9 Q. AT ANY TIME DURING THE INVESTIGATION, DID ANYONE FROM THE
10 CITY TELL YOU, DON'T RETALIATE AGAINST MR. JOHNSON?

11 A. NO, SIR, NOT THAT I RECALL.

12 Q. HOW ABOUT AFTER THE CITY CONCLUDED ITS INVESTIGATION, DID
13 ANYBODY COME TO YOU AND SAY: MS. BEALE, YOU CANNOT RETALIATE
14 AGAINST MR. JOHNSON FOR MAKING THIS COMPLAINT?

14:42:26

15 A. NO, SIR.

16 Q. AS YOU TESTIFIED, YOU HAD HELPED MR. JOHNSON BECOME AN
17 ADMIN AIDE TWO. DID YOU ALSO GIVE HIM MERIT INCREASES?

18 A. YES, I DID.

19 Q. AND YOU ALSO NOMINATED HIM AS EMPLOYEE OF THE QUARTER A FEW
20 TIMES; CORRECT?

21 A. YES, I DID.

22 Q. DID ANY OF THOSE COMMENDATIONS HAPPEN AFTER SEPTEMBER OF
23 2015?

24 A. I DON'T RECALL.

25 Q. YOU DON'T RECALL WHETHER --

14:43:15 1 A. I DON'T RECALL. I DON'T THINK SO THOUGH.

2 Q. THAT ALL HAPPENED PRIOR TO 2015, RIGHT?

3 A. I THINK SO, SIR.

4 Q. AFTER EVERYTHING YOU DID FOR MR. JOHNSON, DID YOU FEEL
5 BETRAYED WHEN YOU FOUND OUT HE FILED A GRIEVANCE AGAINST YOU?

6 A. NO, I DIDN'T.

7 Q. YOU DIDN'T EVEN THOUGH YOU HELPED HIM TO BECOME AN ADMIN
8 AIDE TWO, YOU NOMINATED HIM FOR THESE COMMENDATIONS, NOW HE'S
9 FILING A COMPLAINT BY YOU, YOU DIDN'T FEEL AT ALL BETRAYED BY
10 THAT?

11 A. NO, I DID NOT. I WAS HURT.

12 Q. YOU WERE HURT?

13 A. YES, I WAS HURT.

14 Q. DID IT MAKE YOU ANGRY?

14:43:53 15 A. NO, SIR. I WAS HURT.

16 Q. YOU THOUGHT THE ALLEGATIONS WERE FALSE THOUGH, RIGHT?

17 A. YES, I DID.

18 Q. BUT YOU DIDN'T FEEL ANY ANGER; YOU JUST WERE HURT?

19 A. I WAS VERY HURT.

20 Q. AFTER LEARNING MR. JOHNSON FILED A COMPLAINT AGAINST YOU,
21 DID ANYTHING CHANGE IN YOUR INTERACTIONS WITH HIM AROUND THE
22 OFFICE?

23 A. WE DIDN'T HAVE MUCH CONTACT, NOT BECAUSE I WAS NO LONGER
24 HIS SUPERVISOR, AND HE MORE OR LESS STAYED IN HIS OFFICE, AND I
25 MORE OR LESS STAYED IN MINE.

14:44:25 1 Q. DO YOU RECALL TELLING HIM NOT TO COMMUNICATE WITH YOU
2 UNLESS IT WAS AN EMERGENCY?

3 A. NO.

4 Q. DO YOU RECALL TELLING THE RECORDS STAFF NOT TO COMMUNICATE
5 WITH MR. JOHNSON ABOUT THE VERSATILE PROGRAM IN THAT JANUARY
6 2016 TIMEFRAME?

7 A. ABSOLUTELY NOT.

8 Q. YOU DISAGREE WITH THAT?

9 A. I DISAGREE WITH THAT.

10 Q. OKAY. SO EVEN AFTER THAT JANUARY 2016 TIMEFRAME, IT'S YOUR
11 TESTIMONY THAT MR. JOHNSON CONTINUED TO BE THE POINT OF CONTACT
12 FOR THAT VERSATILE PROGRAM?

13 A. NO, HE WAS NOT. IN JANUARY 2016 BECAUSE WE -- I BELIEVE WE
14 HAD A NEW STORE KEEPER ON BOARD AT THAT TIME.

14:45:24 15 Q. YOU DIDN'T TELL THE RECORDS STAFF THAT THEY NEEDED TO
16 CONTACT THE VENDOR DIRECTLY INSTEAD OF SPEAKING WITH MR.
17 JOHNSON ABOUT THEIR TECHNICAL ISSUES OR FOR TRAINING?

18 A. NO, SIR, BECAUSE HE WAS NO LONGER THE SUPERVISOR.

19 Q. WAS THERE EVER A TIME BETWEEN JANUARY 2016 AND APRIL 2016
20 WHEN MR. JOHNSON SAID HELLO TO YOU AND YOU DID NOT SAY HELLO
21 BACK?

22 A. NO, SIR.

23 Q. DID YOU REMOVE ANY OF HIS JOB DUTIES BETWEEN JANUARY AND
24 APRIL OF 2016?

25 A. NO, SIR.

14:46:02 1 Q. WHAT ABOUT HIS ACCESS TO DIFFERENT WORK SITES? YOU DIDN'T
2 MAKE HIM TURN IN ANY OF HIS KEYS DURING THAT JANUARY TO APRIL
3 2016 TIMEFRAME?

4 A. NOT THAT I RECALL.

5 Q. HOW ABOUT HIS PASSWORDS TO COMPUTER SYSTEMS? DID YOU TAKE
6 AWAY ANY OF THE PASSWORDS OR TELL HIM NOT TO ACCESS THE SYSTEMS
7 IN THE CLERK'S OFFICE?

8 A. NO, SIR.

9 Q. DID YOU TAKE AWAY ANY OF HIS IMAGING SECTION
10 RESPONSIBILITIES IN PARTICULAR?

11 A. NO, SIR.

12 Q. ISN'T IT TRUE YOU REMOVED MR. JOHNSON AS IMAGING SECTION
13 SUPERVISOR SOMETIME BETWEEN JANUARY AND FEBRUARY OF 2016?

14 A. NO, SIR. HE WAS STILL IMAGING SUPERVISOR.

14:46:43 15 Q. AND YOU NEVER TOLD ANYONE DURING THAT TIMEFRAME THAT ELENA
16 MENDOZA WAS NOW THE IMAGING SECTION SUPERVISOR?

17 A. NO, I DIDN'T.

18 Q. I'M GOING TO SHOW YOU EXHIBIT 19, IF WE COULD PUBLISH THAT.
19 MS. BEALE, IT'S TITLED AUTOMATIC REPLY FROM YOU ON FEBRUARY 11,
20 2016. DO YOU SEE THAT?

21 A. YES, SIR, I DO.

22 Q. YOU AGREE THIS APPEARS TO HAVE COME FROM YOUR E-MAIL SYSTEM
23 WITH THE CITY?

24 A. YES, SIR.

25 Q. DO YOU RECALL BEING OUT OF THE OFFICE DURING THIS TIMEFRAME

14:47:30

1 IN THE BEGINNING OF FEBRUARY 2016?

2 A. YES, SIR.

3 Q. AND YOU SAY YOU'LL BE ATTENDING A TRAINING, YOU'LL RETURN
4 FEBRUARY 16, AND YOU SAY WHO TO CONTACT IN YOUR ABSENCE. I
5 WANT TO HAVE YOU LOOK AT THE SECOND TO LAST LINE TITLED,
6 IMAGING SECTION?

7 A. YES, SIR.

8 Q. WHOSE NAME IS LISTED THERE AS IMAGING SUPERVISOR THERE?

9 A. ELENA MENDOZA.

10 Q. OKAY. YOU NEVER SENT MR. JOHNSON AN E-MAIL TO EXPLAIN WHY
11 ELENA MENDOZA IS LISTED AS IMAGING SUPERVISOR ON YOUR AUTOMATIC
12 OUT-OF-OFFICE REPLY?

13 A. NO, SIR.

14 Q. DID YOU EVER SIT DOWN WITH HIM AND EXPLAIN THIS

14:48:25

15 AUTO-RESPONSE WAS AN ERROR AND THAT HE WAS STILL AN IMAGING
16 SECTION SUPERVISOR?

17 A. NO, SIR.

18 Q. DID YOU HAVE ANY DISCUSSION WITH MR. JOHNSON AFTER JANUARY
19 2016 ABOUT ANYTHING HAVING TO DO WITH HIS WORK?

20 A. NO, SIR, I DID NOT.

21 Q. DID YOU SPEAK TO ELENA MENDOZA AROUND FEBRUARY ABOUT
22 LISTING HER AS THE IMAGING SUPERVISOR ON YOUR OUT OF OFFICE --

23 A. NO, SIR, I DIDN'T SPEAK TO ANYONE WHEN I SENT AN
24 OUT-OF-OFFICE NOTICE.

25 Q. OKAY. BUT YOU DID SEND THIS, RIGHT?

14:48:59

1 A. YES.

2 Q. YOU TYPED THAT IN THERE. THAT'S NOT SOMETHING THAT'S
3 AUTOMATICALLY FILLED FROM THE COMPUTER SYSTEM?

4 A. NO, SIR.

5 Q. NO, IT'S NOT AUTOMATICALLY FILLED, MEANING YOU TYPED IT?

6 A. YES, I TYPED IT.

7 Q. WE MENTION THAT IN OR AROUND JANUARY 2016 YOU WERE REMOVED
8 AS MR. JOHNSON'S DIRECT SUPERVISOR. DOES THAT TIMEFRAME SOUND
9 RIGHT TO YOU?

10 A. I BELIEVE SO.

11 Q. IS THAT SOMETHING YOU ASKED FOR?

12 A. NO, SIR.

13 Q. TO YOUR KNOWLEDGE, WAS THAT PURPORTED CHANGE IN SUPERVISOR
14 EVER PUT INTO WRITING?

14:49:34

15 A. I DON'T KNOW.

16 Q. YOU NEVER SAW ANYTHING IN WRITING CONFIRMING THAT CHANGE,
17 RIGHT?

18 A. I NEVER DID.

19 Q. OKAY. AND THE CITY DIDN'T REDO ITS ORGANIZATIONAL CHART
20 FOR YOUR DIVISION AFTER THAT CHANGE IN SUPERVISOR, DID IT?

21 A. NOT THAT I'M AWARE OF.

22 Q. HOW DID YOU FIND OUT THAT YOU WERE NO LONGER GOING TO BE
23 SUPERVISING MR. JOHNSON IN JANUARY 2016?

24 A. I WAS VERBALLY TOLD BY MY DIRECTOR.

25 Q. IS THAT MS. MALAND?

14:50:04 1 A. YES, SIR.
2 Q. OKAY. WHAT DID SHE TELL YOU?
3 A. SHE TOLD ME THAT MR. JOHNSON ASKED TO BE REMOVED FROM MY
4 SUPERVISION AND THAT ELENA MENDOZA WOULD NOW BE THE
5 SUPERVISOR.
6 Q. DID SHE TELL YOU WHY MR. JOHNSON MADE THAT REQUEST?
7 A. NO, SIR.
8 Q. DID YOU SUSPECT WHY?
9 A. I DON'T RECALL. I JUST REMEMBER HER SAYING THAT.
10 Q. OKAY. YOU DIDN'T ASK HER WHY?
11 A. NO, SIR.
12 Q. DID YOU WELCOME THAT CHANGE?
13 A. I JUST WAS FOLLOWING ORDERS, SIR.
14 Q. SURE. SURE. BUT WERE YOU UPSET THAT MS. MALAND TOLD YOU
14:50:44 15 YOU WEREN'T GOING TO BE SUPERVISING MR. JOHNSON ANYMORE?
16 A. NO, SIR.
17 Q. WHY NOT?
18 A. I JUST WASN'T UPSET.
19 Q. YOU WERE RELIEVED?
20 A. SOMEWHAT.
21 Q. DID YOU TELL ANYONE IN YOUR DEPARTMENT THAT MR. JOHNSON'S
22 SUPERVISOR WOULD BE CHANGING?
23 A. NO, SIR, I DID NOT.
24 Q. HOW DID MS. MENDOZA FIND OUT?
25 A. I VERBALLY TOLD HER.

14:51:16 1 Q. OKAY. SO YOU TOLD MS. MENDOZA BUT YOU DIDN'T TELL ANYBODY
2 ELSE?

3 A. RIGHT.

4 Q. WHEN DID YOU TELL MS. MENDOZA?

5 A. I BELIEVE I TOLD HER THE SAME DAY I WAS TOLD.

6 Q. WHAT DO YOU RECALL SAYING TO HER?

7 A. THAT I WAS TOLD THAT RASEAN REQUESTED HER TO BE HIS NEW
8 SUPERVISOR.

9 Q. WHAT WAS MS. MENDOZA'S RESPONSE TO THAT?

10 A. SHE DIDN'T HAVE ONE. SHE SAID OKAY.

11 Q. YOU DIDN'T DISCUSS WITH HER WHY SHE WAS GOING TO BE
12 CHANGING?

13 A. NO, SIR, I DID NOT.

14 Q. OKAY. DID YOU HAVE A DISCUSSION ABOUT HOW THAT TRANSFER OF
14:51:50 15 DUTIES WOULD TAKE PLACE?

16 A. WE HAD SOME DISCUSSION I BELIEVE.

17 Q. WHAT DO YOU RECALL FROM THAT DISCUSSION?

18 A. THAT NOW SHE WOULD BE SUPERVISING MR. JOHNSON, SHE WOULD BE
19 OVERSEEING THE SECTION IN THE SENSE THAT SHE WOULD BE PROVIDING
20 SOME GUIDANCE AND DIRECTION, BUT THAT HE WAS STILL SUPERVISOR
21 OVER THE IMAGING SECTION.

22 Q. YOU RECALL SPECIFICALLY TELLING HER THAT?

23 A. SHE ALREADY KNEW. THAT'S THE STRUCTURE IN THE
24 DEPARTMENT.

25 Q. RIGHT. BUT MY QUESTION IS SLIGHTLY DIFFERENT WHICH IS DO

14:52:29 1 YOU RECALL TELLING HER SPECIFICALLY RASEAN JOHNSON IS STILL
2 GOING TO BE IMAGING SECTION SUPERVISOR EVEN THOUGH NOW YOU'RE
3 GOING TO BE HIS SUPERVISOR?

4 A. THE OVERSEER, YES.

5 Q. AND THAT WAS IN JANUARY, RIGHT?

6 A. YES, SIR.

7 Q. AND THEN THE NEXT MONTH WE GET THIS AUTO RESPONSE?

8 A. YES, SIR.

9 Q. DID YOU TELL MR. JOHNSON THAT MS. MENDOZA WOULD BE HIS NEW
10 SUPERVISOR?

11 A. NO, SIR, I DID NOT.

12 Q. YOU DIDN'T?

13 A. I DON'T RECALL I DID.

14 Q. WHY NOT?

14:53:04 15 A. BECAUSE I LEFT THAT UP TO MS. MENDOZA TO DO.

16 Q. YOU DIDN'T THINK THAT THAT WOULD BE AN APPROPRIATE THING TO
17 DO, TO SIT DOWN WITH WHO HAD BEEN YOUR DIRECT REPORT FOR A
18 NUMBER OF YEARS AND EXPLAIN TO THEM THAT WE'RE GOING TO BE
19 OFFERING, WE'RE GOING TO BE CHANGING YOUR SUPERVISOR TO MS.
20 MENDOZA?

21 A. NO, I DID NOT, SIR.

22 Q. DO YOU KNOW WHETHER MS. MALAND EVER SPOKE TO MR. JOHNSON
23 ABOUT THAT CHANGE?

24 A. I DON'T KNOW.

25 Q. AND THERE WAS NO E-MAIL TO THE ENTIRE DEPARTMENT CONFIRMING

14:53:35 1 THAT MS. MENDOZA WAS NOW GOING TO BE MR. JOHNSON'S SUPERVISOR,
2 WAS THERE?

3 A. NOT THAT I'M AWARE OF, SIR.

4 Q. YOU DIDN'T WRITE ONE?

5 A. NO, SIR.

6 Q. HOW DID YOU EXPECT MR. JOHNSON TO FIND OUT ABOUT THAT
7 CHANGE?

8 A. I ASSUMED HE ALREADY KNEW SINCE HE ALREADY ASKED FOR HER TO
9 BE HIS SUPERVISOR.

10 Q. OKAY. BUT YOU DIDN'T VERIFY THAT ANYONE ACTUALLY TOLD HIM,
11 YES, WE'RE GOING TO HONOR YOUR REQUEST TO CHANGE YOUR
12 SUPERVISOR?

13 A. NO. I DIDN'T THINK MY SUPERVISOR, MY DIRECTOR WOULD BE
14 TELLING ME SOMETHING NOT TRUTHFUL.

14:54:10 15 Q. WELL, REGARDLESS OF THE TRUTH, ISN'T IT IMPORTANT THAT THE
16 EMPLOYEE FINDS OUT, OKAY, MY REQUEST HAS BEEN GRANTED?

17 A. WHICH I ASSUMED HE WOULD AS SOON AS MS. MENDOZA HAD TIME TO
18 TOUCH BASE WITH HIM.

19 Q. HOW DID MS. MENDOZA KNOW WHICH ASSIGNMENTS TO GIVE
20 MR. JOHNSON?

21 A. SHE DID NOT. SHE OVERSAW THE SECTION. HE ALREADY HAD
22 ASSIGNED DUTIES, AND SHE COULD LOOK AT HIS PERFORMANCE PLAN TO
23 SEE WHAT DUTIES HE WAS RESPONSIBLE FOR.

24 Q. OKAY. SO SHE DIDN'T ASSIGN HIM ANY DUTIES AFTER TAKING
25 OVER SUPERVISOR?

14:54:49

1 A. NO.

2 Q. AND SHE DIDN'T DIRECT HIS DAILY TASKS?

3 A. NO. HE WAS RESPONSIBLE FOR THE DAY-TO-DAY DUTIES.

4 Q. AND THOSE DUTIES, THOSE ARE THE ONES YOU HAD ASSIGNED TO
5 HIM; CORRECT?

6 A. THOSE ARE THE ONES THAT ARE STATED IN HIS PERFORMANCE
7 EVALUATION THAT HE IS RESPONSIBLE FOR.

8 Q. CORRECT. AND THOSE ARE DUTIES THAT YOU ASSIGNED HIM,
9 RIGHT?

10 A. THAT HE WAS WORKING ON, YES.

11 Q. IS IT YOUR TESTIMONY THAT MR. JOHNSON DID NOT CONTINUE TO
12 UPDATE YOU ON HIS ASSIGNMENTS AFTER THIS CHANGE IN SUPERVISOR
13 IN JANUARY 2016?

14 A. NO, SIR.

14:55:25

15 Q. SO YOU HAD NO IDEA WHAT HE WAS DOING OR IF HE WAS DOING
16 ANYTHING, AFTER THAT JANUARY 2016 DATE?

17 A. WELL, HE WOULD APPRISE ELENA, AND ELENA WOULD KEEP ME UP TO
18 DATE.

19 Q. LET ME HAVE YOU LOOK BACK AT EXHIBIT 7.

20 A. YES, SIR.

21 Q. AND LET'S GO TO PAGE 2, IF YOU COULD BLOW UP THAT FIRST
22 PARAGRAPH. AS OF APRIL 1ST, 2016, WAS MR. JOHNSON STILL
23 PERFORMING ANY OF THE JOB DUTIES LISTED IN THIS EVALUATION?

24 A. NO, SIR, HE WAS NOT.

25 Q. OKAY. LET'S GO TO THE NEXT PARAGRAPH. OKAY. THIS

14:56:24 1 PARAGRAPH IS TALKING ABOUT MR. JOHNSON'S IMAGING SECTION
2 DUTIES. WHICH OF ANY OF THESE WAS HE STILL PERFORMING AS OF
3 APRIL 1ST, 2016?

4 A. HE WAS STILL THE IMAGING SUPERVISOR.

5 Q. DID HE STILL SUPERVISE TWO IMAGING CLERKS?

6 A. YES, HE DID, SIR.

7 Q. WHO WERE THOSE IMAGING CLERKS?

8 A. I BELIEVE IT WAS SONIA COVETTE(PH.) AND DERRICK
9 BETHANY(PH.).

10 Q. ISN'T IT TRUE MR. BETHANY LEFT YOUR DEPARTMENT IN DECEMBER
11 2015?

12 A. YES, HE DID. I'M SORRY. I MADE A MISTAKE. HE DID.

13 Q. BUT IT'S YOUR TESTIMONY THAT MR. JOHNSON STILL SUPERVISED
14 ONE IMAGING CLERK, MR. COVETTE?

14:57:09 15 A. YES.

16 Q. OKAY. LET'S LOOK AT THE NEXT PARAGRAPH. AS OF APRIL 1ST,
17 2016, WAS MR. JOHNSON STILL TRAINING OTHERS IN THE OFFICE ON
18 THE I9610 ARCHIVE WRITER?

19 A. NO BECAUSE HE HAD ALREADY TRAINED SONIA AND DERRICK.

20 Q. WELL, DERRICK WASN'T WORKING THERE IN APRIL 2016, RIGHT?

21 A. RIGHT.

22 Q. BUT HE ALREADY TRAINED SONIA, SO HE WASN'T DOING THESE
23 TASKS EITHER?

24 A. WELL, HE WAS OPERATING THE I9610 BECAUSE HE WAS MAKING
25 MICROFILM. BUT AS FAR AS TRAINING GOES, THERE WAS NO ONE ELSE

14:57:53 1 TO TRAIN BECAUSE HE ALREADY TRAINED HIS TWO IMAGING CLERKS.
2 Q. FAIR ENOUGH. LET'S LOOK AT THE NEXT PARAGRAPH THEN. SO
3 HERE IS WHERE YOU'RE TALKING IN THE EVALUATION ABOUT THE
4 MICROFILMING DUTIES, AND YOU'LL SEE THE SECOND SENTENCE THERE:
5 ONE OF HIS CORE DUTIES IS TO CREATE MICROFILM OF ALL THE
6 CURRENT RESOLUTIONS AND ORDINANCES ON AN ANNUAL BASIS. DO YOU
7 AGREE THAT'S ONE OF HIS CORE DUTIES?

8 A. YES.

9 Q. MR. JOHNSON WAS NOT DOING THAT AS OF APRIL 1ST, 2016, WAS
10 HE?

11 A. WELL, WE ONLY DID IT ON AN ANNUAL BASIS.

12 Q. WHEN IN THE YEAR DID THAT HAPPEN?

13 A. WELL, WE DID IT ON AN ANNUAL BASIS SO HE MIGHT HAVE ALREADY
14 DONE IT.

14:58:41 15 Q. DO YOU RECALL WHETHER THAT HAPPENED OR NOT?

16 A. YES. IT'S PART OF HIS EVALUATION. HE DOES IT REGULARLY,
17 ROUTINELY. THAT'S WHY THAT'S IN THERE.

18 Q. OKAY. AND SO HE WAS STILL OPERATING THAT I9610 ARCHIVE
19 WRITER AND HAD ACCESS TO ALL SOFTWARE HE NEEDED TO USE THAT
20 PROGRAM AS OF APRIL 2016?

21 A. ABSOLUTELY.

22 Q. WHAT EXACTLY WERE THE PROJECTS MR. JOHNSON WAS WORKING ON
23 PRIOR TO HIS TRANSFER TO THE PUD IN APRIL 2016?

24 A. WELL, HE WAS RESPONSIBLE, AGAIN, FOR CREATING MICROFILM FOR
25 THE VITAL RECORDS WHICH IS THE RESOLUTION, ORDINANCE AND

14:59:28 1 MINUTES FOR THE CITY OF SAN DIEGO WHICH ARE MAINTAINED IN THE
2 CITY CLERK'S OFFICE. HE WAS ALSO RESPONSIBLE FOR OVERSEEING
3 TWO IMAGING CLERKS WHICH DWINDLED DOWN TO ONE, AND THEY WERE
4 RESPONSIBLE FOR SCANNING HISTORICAL MATERIAL THAT WOULD BE
5 UPLOADED TO THE DIGITAL ARCHIVES FOR PUBLIC ACCESS, AND HE WAS
6 ALSO RESPONSIBLE FOR MAYOR ARTIFACTS. BUT AT THE TIME WE HAD A
7 PRACTICALLY FULL-TIME VOLUNTEER THAT WAS DOING MAYOR ARTIFACTS.
8 SO HE WAS JUST OVERSEEING THAT VOLUNTEER TO MAKE SURE THE MAYOR
9 ARTIFACTS WERE BEING PROCESSED IN A TIMELY MANNER, AND HE WAS
10 ALSO SUPERVISING ALL THE VOLUNTEERS DOWN IN THE BASEMENT WITH
11 DIFFERENT PROJECTS THAT HE HAD ASSIGNED TO THEM TO WORK ON.

12 Q. ISN'T IT TRUE THAT WORKING IN THAT BASEMENT WITH THE
13 VOLUNTEERS PULLING THOSE BOXES WAS THE ONLY THING MR. JOHNSON
14 WAS WORKING ON AS OF APRIL 2016?

15:00:27 15 A. NOT THAT I'M AWARE OF, BECAUSE ACCORDING TO THE REPORTS
16 ELENA GAVE ME, HE WAS DOING QUITE A BIT.

17 Q. YOUR EVALUATION IN EXHIBIT 7, IT DOESN'T MENTION ANYTHING
18 ABOUT MS. MENDOZA TAKING OVER AS MR. JOHNSON'S SUPERVISOR IN
19 APRIL 2016, DOES IT?

20 A. IN THIS JOB PERFORMANCE?

21 Q. IN THE PERFORMANCE EVALUATIONS YOU GAVE MR. JOHNSON IN
22 APRIL 2016 --

23 A. NO, IT DOES NOT.

24 Q. AND SO JUST SO I'M CLEAR, WHEN SABRINA TATUM WAS
25 SUPERVISING MR. JOHNSON IN 2012, SHE DID HIS ANNUAL EVALUATION;

15:01:07 1 BUT WHEN MS. MENDOZA WAS SUPERVISING HIM IN 2018, YOU DID IT?

2 A. YES.

3 Q. DID THE COMPLAINT AGAINST YOU, WAS THAT COMPLETED SOMETIME
4 IN MARCH OF 2016?

5 A. YES.

6 Q. AND YOU RECEIVED A COPY OF THE INVESTIGATION FINDINGS,
7 RIGHT?

8 A. IN APRIL.

9 Q. THOSE WERE GIVEN TO YOU BY MS. MALAND?

10 A. YES, SIR.

11 Q. IN A SEALED ENVELOPE?

12 Q. AND MS. MALAND DID NOT DISCUSS THE CONTENTS OF THOSE
13 FINDINGS WITH YOU?

14 A. NO, SIR. I TOOK THEM BACK TO MY OFFICE AND READ THEM.

15:01:58 15 Q. OKAY. DID ANYONE FROM THE CITY'S EEIO OFFICE DISCUSS THE
16 RESULT OF THE INVESTIGATION WITH YOU?

17 A. I DON'T RECALL.

18 Q. DID ANYONE FROM H.R. DISCUSS THE RESULTS OF THE EEIO
19 INVESTIGATION WITH YOU?

20 A. NO, SIR.

21 Q. NO ONE FROM THE CITY DISCUSSES THE INVESTIGATION RESULTS
22 WITH YOU AFTER YOU RECEIVE A COPY; CORRECT?

23 A. NO, SIR.

24 Q. OR ANY OTHER TIME?

25 A. NO, SIR. IT'S JUST IN A REPORT.

15:02:40 1 Q. DID YOU EVER HAVE A MEETING WITH MR. JOHNSON TO DISCUSS A
2 RESOLUTION TO THE INVESTIGATION?

3 A. NO, SIR.

4 Q. THERE WAS NO MEDIATION SESSION HELD WITH ANYONE FROM THE
5 EEIO OFFICE OR H.R. TO DISCUSS HOW TO MOVE FORWARD AFTER THE
6 INVESTIGATION COMPLETED; CORRECT?

7 A. NO, SIR.

8 Q. YOU'D NEVER REQUESTED TO HAVE A MEDIATION SESSION WITH MR.
9 JOHNSON, RIGHT?

10 A. NO, SIR.

11 Q. DID YOU EVER TELL MR. JOHNSON YOU'RE SORRY?

12 A. PARDON?

13 Q. DID YOU EVER TELL MR. JOHNSON YOU WERE SORRY?

14 A. SORRY? I AM NOT UNDERSTANDING YOUR QUESTION.

15:03:27 15 Q. SURE. WELL, YOU UNDERSTOOD THAT WHEN THE INVESTIGATION
16 CONCLUDED THAT MR. JOHNSON'S ALLEGATIONS AGAINST YOU WERE
17 SUBSTANTIATED, RIGHT?

18 A. SOME OF THEM.

19 Q. DID YOU EVER TELL HIM SORRY?

20 A. I FELT THE ALLEGATIONS WERE FALSE AND UNTRUE.

21 Q. EVEN AFTER THE EEIO DETERMINED THAT AT LEAST SOME OF THEM
22 WERE TRUE?

23 A. YES. I THOUGHT THEY WERE FALSE AND UNTRUE.

24 Q. MS. BEALE, YOU MAKE THE SAME NOW THAT YOU DID -- EXCUSE ME.
25 YOU MADE THE SAME IN 2016 THAT YOU DID IN 2015; IS THAT

15:04:02

1 RIGHT?

2 A. YES, SIR.

3 Q. AND YOU'RE STILL DEPUTY DIRECTOR?

4 A. YES, SIR.

5 Q. BASED UPON WHAT YOU KNOW ABOUT THE EEO POLICY. DO YOU

6 UNDERSTAND THAT VIOLATIONS OF THAT POLICY WILL RESULT IN

7 DISCIPLINARY ACTION?

8 A. YES, IT COULD.

9 Q. AND THAT DISCIPLINARY ACTION COULD INCLUDE TERMINATION; IS
10 THAT RIGHT?

11 A. YES, SIR.

12 Q. EVEN IF IT'S THE FIRST OFFENSE; CORRECT?

13 A. YES, SIR.

14 Q. BUT YOU WERE NOT DISCIPLINED AS A RESULT OF THIS GRIEVANCE,
15 WERE YOU?

15:04:55

16 MS. ADEMA: OBJECTION. WE HAVE A STIPULATION

17 REGARDING THAT. CAN WE HAVE A SIDEBAR PLEASE?

18 THE COURT: SUSTAINED.

19 BY MR. CADIEUX:

20 Q. WHEN DO YOU RECALL MR. JOHNSON TRANSFERRED TO THE PUD
21 DEPARTMENT?

22 A. IN APRIL.

23 Q. MS. MALAND DIDN'T TELL YOU BEFORE APRIL THAT MR. JOHNSON
24 WOULD BE TRANSFERRING?

25 A. NOT THAT I CAN RECALL.

15:05:30 1 Q. ISN'T IT TRUE THAT SHE TOLD YOU THAT MR. JOHNSON WOULD BE
2 TRANSFERRING OUT OF HER DEPARTMENT BEFORE SHE HANDED YOU AN
3 ENVELOPE WITH THE INVESTIGATORY FINDINGS?

4 A. I DIDN'T KNOW HE WAS LEAVING UNTIL APRIL.

5 Q. DID YOU PLAY ANY ROLE IN MR. JOHNSON'S TRANSFER?

6 A. NO, SIR, I DID NOT.

7 Q. WHAT DID YOU SUSPECT THE REASON WAS THAT MR. JOHNSON WANTED
8 TO TRANSFER OUT OF YOUR DEPARTMENT?

9 A. I JUST ASSUMED HE FELT HE WANTED TO TRANSFER.

10 Q. DID YOU THINK IT WAS RELATED TO THE COMPLAINT HE FILED
11 AGAINST YOU?

12 A. I ASSUMED THAT'S WHAT IT WAS, YES.

13 Q. DID YOU THINK IT WAS RELATED TO THE FACT THAT THE TWO OF
14 YOU HAD NO COMMUNICATIONS, ACCORDING TO YOU, BETWEEN JANUARY
15 AND APRIL?

15:06:25 15
16 A. I COULDN'T SAY, SIR.

17 Q. DO YOU THINK THAT'S A HEALTHY WORK ENVIRONMENT WHEN THE
18 DEPUTY DIRECTOR IS NOT SPEAKING TO HER REPORTS?

19 A. YES, I WAS SPEAKING TO HIM. WHENEVER I SAW HIM, WE SPOKE.
20 WE SAID HELLO. HE HAD JUST AS MUCH OPPORTUNITY TO COME SEE ME
21 IF HE WANTED TO SAY SOMETHING BUT.

22 Q. WELL, HE DID SAY HELLO AND STUFF TO YOU, RIGHT?

23 A. YES, WE WERE VERY CORDIAL.

24 Q. YOU MENTIONED EARLIER YOU WERE RELIEVED TO FIND OUT MR.
25 JOHNSON WAS GOING TO HAVE A DIFFERENT SUPERVISOR IN JANUARY?

15:07:01

1 A. YES.

2 Q. YOU WERE ALSO RELIEVED WHEN YOU FOUND OUT HE WAS MOVING TO
3 A DIFFERENT DEPARTMENT; CORRECT?

4 A. YES.

5 Q. AND THAT'S BECAUSE YOU HAD FOUND IT STRESSFUL TO HAVE TO
6 INTERACT WITH HIM AFTER FINDING OUT HE MADE A GRIEVANCE AGAINST
7 YOU?

8 A. NO, SIR. IT WAS JUST A STRESSFUL SITUATION.

9 Q. YOU DIDN'T FIND IT WAS STRESSFUL TO INTERACT AFTER LEARNING
10 ABOUT ABOUT HIS COMPLAINT?

11 A. SAY THAT AGAIN, SIR.

12 Q. DIDN'T YOU FIND IT STRESSFUL TO INTERACT WITH HIM AFTER YOU
13 FOUND OUT ABOUT HIS COMPLAINT AGAINST YOU?

14 A. YES, I DID, SIR.

15:07:37

15 Q. DO YOU THINK IT'S FAIR THAT MR. JOHNSON IS THE ONE WHO HAD
16 TO MOVE WHEN YOU WERE THE ONE WHO COMMITTED THE VIOLATIONS?

17 A. I CAN'T SAY THAT, SIR. I DON'T KNOW.

18 Q. YOU DON'T KNOW WHETHER THAT'S FAIR OR NOT?

19 A. IN MY EYES, I DIDN'T COMMIT A VIOLATION.

20 Q. NO FURTHER QUESTIONS.

21 A. THANK YOU, SIR.

22 CROSS-EXAMINATION

23 MR. SCHAEFER:

24 Q. GOOD AFTERNOON, MS. BEALE.

25 A. GOOD AFTERNOON.

15:08:11 1 Q. WHY DID YOU HELP MR. JOHNSON GET A PROMOTION FROM
2 ADMINISTRATIVE AIDE ONE TO ADMINISTRATIVE AIDE TWO?

3 A. BECAUSE MR. JOHNSON WAS A GOOD WORKER, AND I WOULDN'T HAVE
4 DONE IT IF I DIDN'T FEEL HE DIDN'T DESERVE IT.

5 Q. IF WE COULD NOW PUT ON THE SCREEN STIPULATED EXHIBIT 105.
6 DO YOU RECOGNIZE THIS, MS. BEALE, AS ONE OF THE EMPLOYEE OF THE
7 QUARTER NOMINATIONS THAT YOU MADE FOR RASEAN JOHNSON?

8 A. YES, I DO.

9 Q. AND IF WE COULD GO TO PAGE TWO PLEASE, AND JUST THE DATE,
10 IF WE COULD EXPAND THAT. WOULD THAT HAVE BEEN JUNE 26, 2013?

11 MR. CADIEUX: CUMULATIVE, YOUR HONOR. WE'VE SEEN
12 THIS EXHIBIT.

13 THE COURT: ARE YOU ASKING SOMETHING ABOUT THIS
14 EXHIBIT.

15:09:58 15 MR. SCHAEFER: I WAS JUST GOING TO LEAD UP TO ONE
16 OTHER QUESTION FOR EACH ONE OF THESE THREE. SHE WAS ASKED
17 ABOUT IT ON DIRECT, ABOUT HER NOMINATIONS.

18 THE COURT: ALL RIGHT. WELL, I DON'T KNOW IF WE NEED
19 TO. WELL, OVERRULED. YOU CAN USE IT. JUST TRY TO HUSTLE
20 ALONG.

21 MR. SCHAEFER: YES, YOUR HONOR.

22 BY MR. SCHAEFER:

23 Q. IS THAT THE CORRECT DATE?

24 A. YES.

25 Q. AND WERE YOU SINCERE IN NOMINATING HIM FOR THAT POSITION?

15:10:22

1 A. YES, ABSOLUTELY.

2 Q. NOW IT'S EMPLOYEE OF THE QUARTER. CALENDAR-WISE, WHAT
3 QUARTER ARE WE TALKING ABOUT?

4 A. SAY AGAIN.

5 Q. WHEN IT'S EMPLOYEE OF THE QUARTER, IS IT LIKE JANUARY,
6 FEBRUARY, MARCH, APRIL, MAY, JUNE?

7 A. YES. I THINK THEY CHANGED IT RECENTLY NOW. I THINK THEY
8 START WITH THE FISCAL YEAR, JULY, AUGUST, SEPTEMBER. BUT
9 BEFORE, I THINK IT WAS THAT WAY.

10 Q. YOU WERE ASKED ABOUT WHETHER YOU DID A NOMINATION OF MR.
11 JOHNSON AFTER I THINK SEPTEMBER. IF THE QUARTER WERE JANUARY,
12 FEBRUARY, MARCH 2016, WHY WOULD YOU NOT HAVE NOMINATED HIM
13 THEN?

14 A. I'M ASSUMING BECAUSE IT WOULDN'T HAVE BEEN TIME TO DO THE
15 NOMINATIONS.

15:11:17

16 Q. AND DO THE SUPERVISORS TYPICALLY DO THAT OR --

17 A. ANYONE CAN DO EMPLOYEE OF THE QUARTER. DEPUTY DIRECTORS
18 CAN WRITE EMPLOYEE OF THE QUARTER NOMINATIONS, EMPLOYEES,
19 PEERS, SUPERVISORS CAN ALL WRITE EMPLOYEE OF THE QUARTER
20 NOMINATIONS.

21 Q. WE'VE ALREADY HAD TESTIMONY -- I DON'T WANT TO REPEAT ALL
22 THIS BUT WE HAD INDICATION THAT YOU HAD THREE NOMINATIONS, ONE
23 IN 2013, THE ONE WE JUST TALKED ABOUT, ONE IN 2014, AND ONE IN
24 2015. DOES THAT SOUND ABOUT RIGHT?

25 A. YES, SIR.

15:11:57 1 Q. WERE YOU HONEST AND SINCERE IN NOMINATING HIM FOR THESE
2 AWARDS?

3 A. YES.

4 Q. AND WHY DID YOU GENERALLY NOMINATE HIM AS OPPOSED TO OTHER
5 EMPLOYEES?

6 A. WELL, I DID NOMINATE OTHER EMPLOYEES AS WELL. IT WASN'T
7 ALWAYS MR. JOHNSON, BUT I NOMINATED MR. JOHNSON QUITE A BIT FOR
8 THE QUALITY OF WORK THAT HE DID.

9 Q. IS IT TRUE THAT ON AT LEAST A YEARLY BASIS YOU WOULD GIVE
10 MR. JOHNSON D.L. TIME, DAYS OFF?

11 A. YES. USUALLY WITH EVERY PERFORMANCE EVALUATION HE GOT
12 DISCRETIONARY LEAVE ANYWHERE FROM TWO OR THREE DAYS.

13 Q. IS THAT FOR EXCEPTIONAL WORK PERFORMANCE HE DID?

14 A. IT'S FOR GOOD WORK, YES. VERY GOOD WORK.

15:12:48 15 Q. IS IT ACCURATE THAT IN 2018 YOU NOMINATED HIM FOR THE
16 GOLDEN PERFORMANCE?

17 A. YES, I DID.

18 Q. WHY DID YOU DO THAT?

19 A. THE GOLDEN PERFORMANCE IS USUALLY FOR SOME, YOU KNOW,
20 ACKNOWLEDGEMENT, RECOGNITION FOR SOMETHING, YOU KNOW, THAT THEY
21 DID THAT WARRANTED THAT. IF THEY, YOU KNOW, WENT OUT OF THEIR
22 WAY TO HELP A CO-WORKER ON A PROJECT OR THEY WENT ABOVE AND
23 BEYOND THEIR WORK DUTIES, NORMAL WORK DUTIES, THINGS OF THAT
24 NATURE. THAT'S WHY YOU WOULD GIVE A GOLDEN PERFORMANCE OR
25 EMPLOYEE OF THE QUARTER.

15:13:29 1 Q. YOU WERE ASKED A LOT OF QUESTIONS ABOUT THE FINAL
2 EVALUATION THAT YOU DID FOR MR. JOHNSON.

3 A. YES, SIR.

4 Q. WERE ALL THE PRIOR EVALUATIONS YOU DID, WERE THEY ALL
5 POSITIVE TOO?

6 A. YES, SIR. THEY WERE ALL POSITIVE, EVERY ONE OF THEM.

7 Q. AND I DO WANT TO FOLLOW UP WITH SOME OF THE QUESTIONS THAT
8 WERE ASKED OF YOU FOR EXHIBIT 7, THE LAST EVALUATION, IF WE
9 COULD PUT THAT ON THE SCREEN PLEASE. FIRST, AT THE TOP, THIS
10 SAYS IT'S FOR THE PERIOD OF APRIL 10, 2015 TO APRIL 9TH,
11 2016?

12 A. YES.

13 Q. WHY NOT HAVE MS. MENDOZA DO THE EVALUATION?

14 A. BECAUSE USUALLY IT'S THE PERSON THAT HAS HAD THE LONGEST
15 TENURE OF SUPERVISION OVER THAT PERSON THAT DOES IT. SO SINCE
16 I HAD SUPERVISED HIM FOR APPROXIMATELY 8 MONTHS, THEN I WOULD
17 BE THE ONE TO WRITE BECAUSE SHE WOULDN'T KNOW WHAT TO WRITE IN
18 THE PERFORMANCE EVALUATION.

19 Q. BASED ON YOUR MANY YEARS WITH THE CITY, IS IT CUSTOMARY
20 THAT THE SUPERVISOR WITH THE MOST KNOWLEDGE DOES THE
21 PERFORMANCE EVALUATION?

22 A. THE MOST TIME SPENT. SO SINCE HE WAS UNDER MY SUPERVISION
23 FOR EIGHT MONTHS AND I HAD THE BULK OF THE TIME OVER HIM AND
24 WHAT HE WAS DOING IN HIS PROJECTS AND SO FORTH, I WOULD BE THE
25 ONE TO WRITE IT.

15:14:53 1 Q. NOW WE'LL GO TO THE SECOND PAGE OF THAT EVALUATION. AND
2 YOU WERE ASKED A LOT ABOUT THE FIRST PARAGRAPH?

3 A. YES, SIR.

4 Q. IF WE COULD EXPAND THAT PLEASE. YOU, CORRECT ME IF I'M
5 WRONG, TESTIFIED THAT AT THE TIME OF THE EVALUATION RASEAN WAS
6 NOT SUPERVISING THE RECORDS CENTER STORE KEEPER; IS THAT
7 CORRECT?

8 A. YES.

9 Q. AND IS THAT BECAUSE THERE HAD BEEN A CHANGE OF SOME TYPE IN
10 TERMS OF WHO HE SUPERVISED?

11 MR. CADIEUX: OBJECTION, YOUR HONOR. MOTION IN
12 LIMINE, ALSO LEADING.

13 THE COURT: SUSTAINED.

14 MR. SCHAEFER: AS TO THE LATTER, YOUR HONOR, CAN I
15 REPHRASE?

15:15:45 15 THE COURT: YES.

16 BY MR. SCHAEFER:

17 Q. WHEN WAS IT THAT MR. RASEAN, WHEN WAS THE DECISION MADE
18 WHEN MR. JOHNSON WAS NOT SUPERVISING THE RECORDS CENTER STORE
19 KEEPER? I'M JUST ASKING ABOUT TIME.

20 MR. CADIEUX: OBJECTION, YOUR HONOR. THAT GETS INTO
21 OUR MIL.

22 THE COURT: WELL, IT DOES BRING IT INTO THE
23 TIMEFRAME. MOVE ON. SUSTAINED.

24 MR. SCHAEFER: OKAY. AT A LATER POINT CAN I BE HEARD
25

15:16:15

1 AT SIDEBAR ON THAT?

2 THE COURT: YES.

3 BY MR. SCHAEFER:

4 Q. OKAY. LET ME ASK YOU THIS: FROM THE TIME THAT YOU LEARNED
5 OF MR. JOHNSON'S GRIEVANCE, WHICH YOU TESTIFIED WAS OCTOBER
6 2015, FROM THAT DATE THEREAFTER, DID ANY OF HIS SUPERVISION
7 RESPONSIBILITIES CHANGE?

8 A. NO, SIR.

9 Q. DID YOU TAKE AWAY ANY OF HIS RESPONSIBILITIES FROM THE TIME
10 YOU LEARNED OF THE GRIEVANCE TO THE TIME HE LEFT?

11 A. NO, SIR, ABSOLUTELY NOT.

12 Q. DO YOU KNOW OF ANY OTHER MANAGER FROM THAT TIMEFRAME,
13 OCTOBER 2015 UNTIL THE TIME HE LEFT, THAT TOOK AWAY ANY OF HIS
14 RESPONSIBILITIES?

15:17:01

15 A. NO, SIR.

16 Q. NOW LET'S GO BACK TO THE BOTTOM OF THIS EVALUATION WHERE
17 MS. MALAND SIGNS. WHY WAS MS. MALAND SIGNING, IF YOU KNOW?

18 A. BECAUSE THIS IS ON EVERY PERFORMANCE EVALUATION THAT IS
19 DONE IN THE CITY. SO SINCE I'M THE SUPERVISOR, MY SUPERIOR IS
20 THE ONE THAT'S SUPPOSED TO REVIEW IT.

21 Q. IS THERE ANYTHING UNUSUAL, THEREFORE, THAT SHE SIGN THIS
22 PARTICULAR ONE?

23 A. NO.

24 Q. NOW YOU SAID THAT WHEN YOU RAN INTO MR. JOHNSON DURING THIS
25 TIMEFRAME THAT'S IN QUESTION YOU WERE CORDIAL; IS THAT

15:18:01

1 CORRECT?

2 A. YES, SIR.

3 Q. AND HOW OFTEN DID YOU EVEN SEE HIM?

4 A. PARDON, I DIDN'T HEAR THAT. I'M SORRY. I DIDN'T HEAR
5 THAT.

6 Q. HOW OFTEN DID YOU EVEN SEE HIM THERE IN THE WORKPLACE?

7 A. I DIDN'T SEE HIM VERY OFTEN BECAUSE MY OFFICE WAS TO THE
8 FAR LEFT. HIS OFFICE WAS TO THE FAR RIGHT. SO, AND THEN THERE
9 WAS THE RECORDS CENTER THAT WAS BETWEEN US. SO IT WASN'T LIKE
10 HE WAS NEXT DOOR TO ME OR DOWN THE HALL. HE WAS ON THE
11 OPPOSITE SIDE OF THE OFFICE. SO WE DIDN'T HAVE MUCH CONTACT

12 BECAUSE HE WAS IN HIS OFFICE ALL DAY WORKING AND I WAS IN MINE.

13 Q. NOW YOU MENTIONED THAT WHEN YOU WERE TOLD MS. MENDOZA WOULD
14 BE SUPERVISING MR. JOHNSON YOU WERE SOMEWHAT, QUOTE, RELIEVED,
15 END QUOTE?

15:19:09

16 A. YES.

17 Q. CAN YOU TELL THE LADIES AND GENTLEMEN WHY YOU WERE SOMEWHAT
18 RELIEVED?

19 A. BECAUSE IT'S NORMAL IN ANY SITUATION THAT IT WOULD BE,
20 UNDER THESE CIRCUMSTANCES, IT WAS STRESSFUL AND IT WAS JUST
21 VERY -- IT WAS A VERY STRESSFUL TIME FOR THE WHOLE DIVISION SO
22 FOR SOMEONE ELSE TO SUPERVISE RASEAN WAS A RELIEF TO ME.

23 Q. AND YOU WERE NOT INVOLVED IN ANY OF THE DISCUSSIONS ON
24 CHANGING THE SUPERVISOR?

25 A. NO, SIR.

15:19:49 1 Q. I'LL REPHRASE, YOUR HONOR. WERE YOU INVOLVED IN ANY OF THE
2 DISCUSSIONS TO CHANGE THE SUPERVISOR?

3 A. NO. I WASN'T PRIVY TO ANY OF THOSE CONVERSATIONS.

4 Q. DID YOU EVER INSTRUCT MS. MENDOZA, HIS NEW SUPERVISOR, HOW
5 SHE SHOULD SUPERVISE MR. JOHNSON?

6 A. NO. I WOULDN'T DO THAT. SHE HAS THE LIBERTY. SHE'S BEEN
7 A LONG-TIME, SEASONED SUPERVISOR. SHE KNOWS WHAT TO DO.

8 Q. NOW YOU MENTION YOU DID GET REPORTS FROM MS. MENDOZA ABOUT
9 MR. JOHNSON'S WORK; IS THAT CORRECT?

10 A. YES.

11 Q. WHY WOULD YOU BE GETTING THOSE REPORTS?

12 A. BECAUSE SHE OVERSEES RASEAN JOHNSON, THE SECTION, AND SHE'S
13 RESPONSIBLE FOR THE DAY-TO-DAY DUTIES. ELENA MENDOZA IS A
14 WORKING SUPERVISOR. SHE HAD HER OWN FULL WORKLOAD. SHE'S ALSO

15 A RECORDS ANALYST. SO SHE WAS BUSY DOING HER WORK WITH THE
16 RECORDS ANALYST SIDE, BUT SHE'S OVERSEEING MR. JOHNSON WHO
17 REPORTS TO HER ABOUT HOW PROGRESS IS BEING MADE ON ALL THE
18 PROJECTS HE'S DOING. IT'S KIND OF LIKE, TO ME, LIKE A FOREMAN
19 AT A CONSTRUCTION SITE. HE'S NOT DOING ALL THE WORK, BUT HE'S
20 OVERSEEING TO MAKE SURE EVERYTHING GETS DONE. SO THAT'S WHAT
21 ELENA'S ROLE WAS. AND THEN TO COME BACK TO ME TO SAY AND TO
22 REPORT BACK TO SAY WHAT HAS BEEN ACCOMPLISHED, WHAT WAS LAGGING
23 WHICH HE, YOU KNOW, THINGS OF THAT NATURE.

24 Q. LET'S TALK ABOUT EXHIBIT 19, THE AUTO E-MAIL, IF WE CAN PUT
25 THAT ON THE SCREEN. WHY DID YOU LIST ELENA MENDOZA AS THE

15:21:51 1 IMAGING SUPERVISOR, IF YOU CAN LET THE JURORS KNOW?

2 A. YES. I LISTED ELENA MENDOZA AS THE IMAGING SUPERVISOR
3 BECAUSE IT WAS MADE CLEAR THAT HE HAD ASKED FOR MS. MENDOZA TO
4 BE HIS SUPERVISOR AND I DIDN'T WANT, THAT WAS IN MY HEAD, THAT
5 ELENA IS NOW THE SUPERVISOR AND I DIDN'T WANT TO GIVE ANY
6 APPEARANCE THAT I WAS STILL HIS SUPERVISOR. SO THAT'S WHY I
7 LISTED ELENA MENDOZA. IT MAY HAVE BEEN A POOR OVERSIGHT ON MY
8 PART, BUT THAT'S THE REASON WHY I LISTED IT.

9 Q. NOW I WANT TO FIND OUT, WHEN YOU SAY YOU GOT A COPY OF THE
10 FINDINGS IN AN ENVELOPE FROM MS. MALAND AFTER THE INVESTIGATION
11 WAS COMPLETED, ARE YOU TALKING ABOUT THE EEIO INVESTIGATION?

12 A. IN APRIL?

13 Q. YES.

14 A. YES.

15:22:55 15 Q. AND WHAT DO YOU MEAN BY FINDINGS? A REPORT OR WHAT?

16 A. IT WAS A REPORT.

17 Q. YOU HAVE ACKNOWLEDGED THAT YOU WERE HURT. YOU WERE ASKED
18 ABOUT YOUR FEELINGS.

19 A. YES.

20 Q. ARE YOU, AS YOU SIT HERE TODAY, ANGRY AT MR. JOHNSON?

21 A. NO, I'M NOT ANGRY AT MR. JOHNSON. MR. JOHNSON AND I HAVE A
22 LONG HISTORY TOGETHER. WE WORKED TOGETHER AS CO-SUPERVISORS.
23 WE WORKED TOGETHER WHEN I WASN'T A SUPERVISOR. WE WORKED
24 TOGETHER WHEN I BECAME HIS DEPUTY DIRECTOR. SO WE HAVE A LONG
25 HISTORY TOGETHER. WE WERE FRIENDS, AND IN MY HEART, REGARDLESS

15:23:47 1 OF WHAT HAPPENS TODAY, I STILL HOLD MR. JOHNSON IN HIGH REGARD.

2 Q. DO YOU -- DID YOU IN ANY WAY WHILE THIS, AFTER THIS
3 COMPLAINT CAME TO YOUR ATTENTION IN OCTOBER 2015 TO AFTER MR.
4 JOHNSON TRANSFERRED TO PUD, DID YOU DO ANYTHING TO PUNISH HIM,
5 RETALIATE AGAINST HIM FOR HAVING FILED A COMPLAINT?

6 A. ABSOLUTELY NOT. I DID NOT.

7 THE COURT: EXCUSE ME, LET'S NOT ELABORATE. YOU
8 ANSWERED THE QUESTION. IF THERE'S A FOLLOW UP, YOU CAN
9 ANSWER.

10 BY MR. SCHAEFER:

11 Q. YOU DID NOT?

12 A. NO, SIR, I DID NOT.

13 Q. WERE YOU INVOLVED IN ANY WAY WHATSOEVER IN THE DISCUSSIONS
14 LEADING UP TO THE TRANSFER OF MR. JOHNSON TO PUD?

15:24:46 15 A. NO, SIR.

16 Q. DID YOU KNOW, FOR INSTANCE, ONCE YOU LEARNED HE WAS GOING
17 TO PUD WHAT HIS OFFICE WOULD LOOK LIKE, WHAT HE WOULD BE DOING,
18 HIS RESPONSIBILITIES?

19 A. NO, SIR. I WOULDN'T KNOW THAT.

20 Q. TO WHOM HE'D REPORT?

21 A. NO, SIR.

22 MR. SCHAEFER: MAY I HAVE ONE MOMENT, YOUR HONOR?

23 THE COURT: YES.

24 BY MR. SCHAEFER:

25 Q. A COUPLE MORE QUESTIONS. WHEN YOU HAD THAT FINAL

15:26:07 1 EVALUATION FOR MR. JOHNSON, DID YOU EVER MEET PRIVATELY WITH
2 HIM TO DISCUSS IT?

3 A. THE FINAL EVALUATION, NO, SIR. I GAVE THAT TO ELENA.

4 Q. AND THE AUTO-REPLY THAT WE TALKED ABOUT, EXHIBIT 19, WHERE
5 YOU LISTED MS. MENDOZA?

6 A. YES.

7 Q. AS THE SUPERVISOR OF IMAGING, WHEN DID YOU FIRST EVEN LEARN
8 ABOUT THAT, THAT IT HAD GONE OUT TO MR. JOHNSON?

9 A. I'M NOT SURE I UNDERSTAND. I'M NOT UNDERSTANDING.

10 Q. WHEN DID IT FIRST COME TO YOUR ATTENTION HE SEEN THAT
11 E-MAIL, THE AUTO-REPLY?

12 A. I BELIEVE AT THE DEPOSITION, UH-HUH.

13 Q. DID YOU HAVE ANY INTENT WHEN YOU SENT THAT E-MAIL OUT TO
14 MAKE HIM FEEL BAD?

15:27:02 15 MR. CADIEUX: LEADING.

16 THE WITNESS: NO, SIR, I DID NOT.

17 THE COURT: I'M SORRY?

18 MR. CADIEUX: THE OBJECTION IS LEADING, BUT WE GOT
19 THE ANSWER.

20 THE COURT: ON THE OBJECTIONS, IF YOU WOULD REALLY
21 SPEAK INTO THE MICROPHONE, THE ACOUSTICS ARE REALLY BAD.
22 COUNSEL, I FOUND OUT LATER, ASKED FOR A SIDEBAR AND I
23 DIDN'T HEAR YOU. I APOLOGIZE FOR THAT. TRY TO SPEAK INTO
24 THE MICROPHONE.

25 MS. ADEMA: YES, YOUR HONOR.

15:27:25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. SCHAEFER: NO OTHER QUESTIONS, YOUR HONOR.

THE COURT: OKAY.

MR. VANDERPOOL: MAY I HAVE REDIRECT OF THIS WITNESS,
YOUR HONOR.

THE COURT: YOU GOT FIVE MINUTES.

MR. CADIEUX: PERFECT.

REDIRECT EXAMINATION

BY MR. CADIEUX:

Q. MRS. BEALE, YOU MENTIONED YOU DIDN'T SEE MR. JOHNSON MUCH
AROUND THE OFFICE AFTER MS. MENDOZA TOOK OVER AS SUPERVISOR,
RIGHT?

A. YES, SIR.

Q. ISN'T THAT BECAUSE HE WAS IN THE BASEMENT PULLING BOXES?

A. NO, SIR, NOT TO MY KNOWLEDGE.

15:27:52

Q. WHEN YOU SAID YOU WERE CORDIAL WITH MR. JOHNSON WHEN YOU
DID SEE HIM, DO YOU RECALL HAVING ANY MEETINGS WITH MR. JOHNSON
PRESENT WHERE YOU TOLD MS. MENDOZA, MAKE SURE TO TELL RASEAN
THAT HE NEEDS TO DO X, Y, Z?

A. NO, SIR.

Q. WHEN YOU WERE ASKED JUST NOW ABOUT EXHIBIT 19, YOU WROTE
THAT ELENA MENDOZA WAS IMAGING SUPERVISOR BECAUSE YOU DIDN'T
WANT TO GIVE THE APPEARANCE THAT YOU WERE STILL MR. JOHNSON'S
SUPERVISOR?

A. YES, SIR.

Q. WHY DIDN'T YOU JUST LIST RASEAN JOHNSON'S NAME THERE

15:28:35

1 THEN?

2 A. BECAUSE I WAS THE ONE THAT SENT IT, I WAS THE ONE THAT
3 WROTE IT.

4 Q. OKAY. BUT ISN'T IT JUST TELLING EVERYBODY IF YOU HAVE A
5 QUESTION ABOUT THE IMAGING SECTION, CONTACT THE IMAGING
6 SUPERVISOR WHO IS RASEAN JOHNSON?

7 A. I MIGHT HAVE BEEN OVERLY SENSITIVE AT THE TIME, BUT THAT'S
8 THE WAY I WROTE IT. IT WAS WITH NO ILL INTENT TO SAY THAT HE
9 WAS NOT IN THE ROLE OF THE SUPERVISOR. IT WAS JUST AN
10 OVERSIGHT ON MY PART.

11 Q. I THINK YOU SAID IT WAS MAYBE A HORRIBLE OVERSIGHT. DID
12 YOU EVER TELL MR. JOHNSON THAT THAT WAS A HORRIBLE OVERSIGHT ON
13 YOUR PART?

15:29:16

14 A. I DON'T THINK I SAID HORRIBLE. I SAID I THINK IT WAS AN
15 OVERSIGHT ON MY PART, SIR.

16 Q. OKAY. DID YOU EVER APOLOGIZE TO MR. JOHNSON FOR THAT
17 OVERSIGHT?

18 A. NO, SIR. I WASN'T AWARE HE WAS UPSET ABOUT IT.

19 Q. OKAY. DO YOU WANT TO DO THAT NOW?

20 A. I DON'T THINK THIS IS THE --

21 THE COURT: THAT'S AN IMPROPER QUESTION.

22 MR. CADIEUX: FAIR ENOUGH, YOUR HONOR. I'M DONE.
23 THANK YOU.

24 THE COURT: AS I SAID, LADIES AND GENTLEMEN, WE'LL
25 TRY TO GET OUT EARLY WHEN WE CAN, AND RATHER THAN START ANOTHER

15:29:45 1 WITNESS, IT'S 3:30, WE'LL BE EXCUSED FOR THE DAY. COME BACK AT
2 9:00 TOMORROW, AND WE'LL PROBABLY HAVE ABOUT THE SAME
3 SCHEDULING, AND IT SHOULD GO A LITTLE FASTER. WITH THAT,
4 REMEMBER MY ADMONISHMENT. DON'T TALK ABOUT THIS WITH YOUR
5 FAMILY OR ANYBODY ELSE.

6 I ALSO MIGHT ADD, WHICH I HADN'T SAID BEFORE, OFTEN
7 YOU RUN INTO THE ATTORNEYS IN THE ELEVATOR OR SOMETHING OR
8 COURT STAFF. IT'S FINE TO SAY HELLO BUT DON'T ASK ANY
9 QUESTIONS, DON'T REALLY ENGAGE IN A CONVERSATION WITH ANY OF
10 THE COURT STAFF, ANY OF THE LAWYERS EITHER. I'M SURE THEY'D
11 LOVE TO TALK TO YOU IF THEY RAN INTO YOU, BUT THEY ALL KNOW
12 THAT THAT'S AGAINST THE COURT'S RULES. SO THEY WON'T. THEY'LL
13 JUST SAY HELLO TOO. JUST TRY TO AVOID THAT. I DON'T KNOW IF
14 THAT WILL COME UP. PROBABLY WON'T, BUT JUST TO BE AWARE OF IT.
15:30:48 15 ALL RIGHT. WE'LL SEE YOU TOMORROW AT 9:00. OKAY. LEAVE YOUR
16 NOTES HERE. DON'T TAKE YOUR NOTES WITH YOU.

17 (JURORS ABSENT.)

18 THE COURT: OKAY. WE CAN TAKE UP AT 8:00 TOMORROW IF
19 YOU ALL HAVE DECIDED ANYTHING. IN A WAY I THINK IT'S GOING TO
20 BE A LOT EASIER THAN IT MIGHT SEEM AT FIRST BLUSH, BUT NOT
21 WITHSTANDING THAT, WE CAN DEAL WITH IT TOMORROW AT 8:00.

22 ALL COUNSEL: THANK YOU, YOUR HONOR.

23 THE COURT: WAIT A MINUTE. I SAID 8:00. I DIDN'T
24 MEAN 8:00. I MEANT 8:45. OTHERWISE, YOU'D BE IN AN EMPTY
25 COURTROOM.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(CONCLUSION OF JURY TRIAL - DAY 2.)

C-E-R-T-I-F-I-C-A-T-I-O-N

I HEREBY CERTIFY THAT I AM A DULY APPOINTED, QUALIFIED AND ACTING OFFICIAL COURT REPORTER FOR THE UNITED STATES DISTRICT COURT; THAT THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HAD IN THE AFOREMENTIONED CAUSE; THAT SAID TRANSCRIPT IS A TRUE AND CORRECT TRANSCRIPTION OF MY STENOGRAPHIC NOTES; AND THAT THE FORMAT USED HEREIN COMPLIES WITH THE RULES AND REQUIREMENTS OF THE UNITED STATES JUDICIAL CONFERENCE.

DATED: MAY 23, 2019, AT SAN DIEGO, CALIFORNIA.

/S/ JULIET Y. EICHENLAUB
JULIET Y. EICHENLAUB, RPR, CSR
OFFICIAL COURT REPORTER
CERTIFIED SHORTHAND REPORTER NO. 12084